

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

R.P (FC) .No. 194 of 2015

AGAINST THE ORDER IN M.C 82/2012 of FAMILY COURT, NEDUMANGAD

REVISION PETITIONER/PETITIONER:

VINOD, AGED 42 YEARS,
S/O THAPASI NADAR, PARAMBIL HOUSE,
NELLANADU VILLAGE,
VENJARAMUDE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.SHAJI M.KURIAKOSE

RESPONDENTS:

1. SHIBIN, AGED 12 YEARS,
S/O JEENA, JOY BHAVAN, PUTHUKKUNNU,
POUDIKONAM, ULIYAZHAPPARA VILLAGE,
THIRUVANANTHAPURAM - 695587.
2. SHIJI, AGED 11 YEARS,
D/O JEENA, JOY BHAVAN, PUTHUKKUNNU,
POUDIKONAM,
ULIYAZHAPPARA VILLAGE,
THIRUVANANTHAPURAM - 695587.
(RESPONDENTS 1 AND 2 ARE MINOR
REPRESENTED BY THEIR GUARDIAN MOTHER JEENA
D/O VALSALA, AGED 31 YEARS, JOY BHAVAN
PUTHUKKUNNU, POUDIKONAM
ULIYAZHAPPARA VILLAGE THIRUVANANTHAPURAM)

R1,R2 BY ADV. SRI.SREEKANTH S.NAIR

THIS REV.PETITION (FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 16-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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P.UBAID, J.

R.P(FC) No.194 OF 2015

Dated this the 16th day of June, 2015

O R D E R

A maintenance order under Section 127 of the Code of Criminal Procedure passed by the Family Court, Nedumangad in M.C No.82/2012 is under challenge in this revision petition brought under Section 19 of the Family Court Act. The respondents herein are none other than minor children of the revision petitioner. Claim was initially made under Section 125 of the Code of Criminal Procedure in 2010 by way of M.C No.172/2010. The parties came to terms at that time, and accordingly the revision petitioner herein offered ₹250/- each per month to the two children. In the circumstances prevailing at that time their mother was compelled to accept the offer, and accordingly, the trial court passed orders in M.C No.172/2010 granting maintenance to the children at the rate of ₹250/- each per month. When they brought claim in 2010 the first child was aged 8 years and the second one was aged 7 years. It is not known how the revision petitioner's conscience allowed him to offer just ₹250/- each per month to the children. Anyway, the

mother accepted the offer and accordingly, the court passed orders. In 2012 the two minor children brought M.C No.82/2010 in the court below under Section 127 of the Code of Criminal Procedure, claiming reasonable enhancement in the maintenance grant. The revision petitioner herein made contest in the proceeding, and contended that he does not have sufficient means and resources to pay as claimed by the children. Both the parties adduced oral and documentary evidence in the proceeding under Section 127 of the Code of Criminal Procedure. Finding that there has been material change in the circumstances of the minor children and considerable increase in their needs and necessities, the learned trial judge allowed the request and modified the initial order, granting maintenance to the two children at the rate of ₹3,000/- each per month with effect from 7.2.2012. The said order dated 5.6.2014 is under challenge.

2. The respondents (two minor children) are represented by their mother. They made appearance in this proceeding through the learned counsel and resisted the revision petitioner's request to interfere in the order passed by the court below.

3. On hearing both sides, and on a perusal of the

materials including the impugned order I find that the order under challenge can be reasonably modified. No doubt, there has been change in the circumstances of the minors since 2010. Now the first child must be aged 13 years and the second must be aged 12 years. We can think of their needs and necessities including their educational expenses. It is submitted that the revision petitioner herein is a grocer having sufficient income. Whatever be his source or income, it is his liability under the law to meet the requirements of his own children who require reasonably for their educational and other expenses at this tender age. The revision petitioner cannot wash his hands off the responsibilities saying that he has other family to look after. If it is a burden put on his shoulders by him voluntarily he must bear it. The minor children cannot be expected to adjust in such a circumstance. Their legitimate claim will have to be allowed by the court.

4. On a consideration of all the relevant aspects including means of the revision petitioner at present and also the present needs and necessities of the children, I feel, on hearing both the counsel, that ₹2,000/- each per month would be the proper and adequate amount of maintenance in the present circumstances. Accordingly, the impugned order can be

modified, and there can be a direction to pay maintenance to the two children at the rate of ₹2,000/- each per month. It is made clear that this modification will be subject to further modification or enhancement under Section 125 of the Code of Criminal Procedure by the court below, on change in the circumstances, or as and when the needs and necessities of the children increase.

5. In the result, this revision petition is disposed of as follows, even without admission to files.

a) The impugned order passed by the court below in M.C No.82/2012 will stand modified to the effect, that the amount payable by the revision petition herein to the respondents as maintenance shall be ₹2,000/- each per month, payable from the date of petition as ordered by the trial court.

b) The modification made hereby will be subject to further modification under Section 127 of the Code of Criminal Procedure, as and when challenge in circumstances occur, or the needs and necessities of the children increase as they grow up.

**P.UBAID
JUDGE**

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