

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

RPFC.No. 195 of 2015 ()

ORDER IN MC 630/2011 of FAMILY COURT, THRISSUR

REVISION PETITIONER(S)/RESPONDENT:

SUJITH KUMAR, AGED 39 YEARS
S/O.SUKUMARAMENON K.N., KEEZHEDATH HOUSE
THRIIPPUNITHURA P.O., NADAMA VILLAGE
ERNAKULAM DISTRICT.

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY

RESPONDENT(S)/PETITIONERS & STATE:

1. STATE OF KERALA
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031.
2. LAKSHMI SOMASUNDARAM, AGED 32 YEARS,
D/O.SOMASUNDARAM, KOTTARAM, NEAR MANALARKKAVU TEMPLE
VIYYUR P.O., THRISSUR DISTRICT, 680010.
3. MINOR DEV NARAYAN MENON, AGED 4 YEARS,
S/O.LAKSHMI SOMASUNDARAN, KOTTARAM
NEAR MANALARKKAVU TEMPLE, VIYYUR P.O.
THRISSUR DISTRICT, 680010
REP.BY 2ND RESPONDENT (MOTHER & GUARDIAN) .

R2 & 3 BY ADV. SRI.M.PREMCHAND
R BY PUBLIC PROSECUTOR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No. 195 of 2015

Dated this the 18th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.630 of 2011 on the files of the Family Court, Thrissur. The court below directed the revision petitioner to pay ₹7,500/- to the second respondent herein and ₹5,000/- to the third respondent herein, who are respectively the wife and the minor son of the revision petitioner, towards their monthly maintenance.

2. Heard both sides.

3. The only challenge in this revision petition is with regard to the quantum of maintenance ordered by the court below.

4. It is admitted by RW1 that he was working in Bangalore in a company and at that time, he was getting ₹1.5 lakhs per month as salary. However, he left that employment and joined in the business of his family, where he was appointed as a Director of the concern. Now, he is getting only

₹25,000/- per month as salary. Even though the revision petitioner contended that the second respondent is employed, the evidence of PW1 coupled with the evidence of RW2 would prove that the second respondent lost her job before filing the present M.C. The revision petitioner tried to prove through Ext.D5, which is the print out of an e-mail letter, that the second respondent is employed. However, PW1 was not confronted with Ext.D5. It was only after her examination that Ext.D5 was produced. No question was also asked to PW1 with regard to her employment at Silver Hills, during her examination. The service provider was also not examined. No certificate from the service provider was also produced. After considering the entire evidence, the court below found that Ext.D5 could not be acted upon to hold that the second respondent was employed.

5. Having gone through the relevant inputs, I am satisfied that the finding by the court below that there is no convincing material before the court to hold that the second

respondent is employed, does not warrant any interference by this Court. The court below did not accept the evidence of RW1 that he is getting only ₹25,000/- per month as income from his present business, particularly when he admitted that he was earlier drawing ₹1.5 lakhs per month as salary.

7. Taking into consideration of the entire facts and circumstances, the court below observed that the revision petitioner would be getting at least ₹1,00,000/- per month. The said finding of the court below also does not warrant any interference by this Court. The court below directed the revision petitioner to pay ₹7,500/- per month to the second respondent. PW1 did not project any need entitling her to get ₹7,500/- per month towards maintenance.

8. Taking into consideration of the entire evidence available in this case, I am of the view that the quantum of maintenance awarded by the court below to the second respondent herein can be reduced to ₹6,500/- to meet the ends of justice and accordingly, I order so.

9. However, no circumstance has been brought to my notice to interfere with the quantum of maintenance ordered by the court below to the third respondent.

In the result, this revision petition stands allowed in part, modifying the quantum of maintenance awarded by the court below to the second respondent herein as above. The quantum of maintenance awarded to the third respondent stands confirmed.

I make it clear that this order will not take away the rights, if any, of the parties, in seeking for other remedies available to them under law. The second respondent herein shall be at liberty to withdraw the amount, if any, deposited by the revision petitioner before the court below. The revision petitioner is granted two months for depositing the entire arrears of maintenance amount, as requested by the learned counsel for the revision petitioner.

**Sd/-
B. SUDHEENDRA KUMAR
JUDGE**