

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

RPFC.No. 204 of 2015 (E1)

(MC 229/2013 of FAMILY COURT, CHAVARA)

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REVISION PETITIONER(S)/RESPONDENT:

PUSHPAKUMAR, AGED 41 YEARS,
S/O. MADHAVAN, VARIKKOLIL KUTTIYIL, SOORANADU SOUTH,
SOORANADU (PO), KUNNATHOOR, KOLLAM,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
M.THULASI, S/O. MADHAVAN, RESIDING AT PRANAVAM,
THRIKKUNNAPUZHA VADAKKU, KAKKAKKUNNU,
P.O. SOORANADU SOUTH,
KUNNATHU TALUK, KOLLAM.

BY ADV. SRI.K.SUBASHCHANDRA BOSE

RESPONDENT(S)/PETITIONERS:

1. SULAJA, AGED 37 YEARS,
D/O KUTTAN, CHOVENTAYYATHU VEEDU, KADAPPA,
MYNAGAPPALLY, KUNNATHOOR TALUK, KOLLAM 690 519.

2. HARIKRISHNAN, AGED 11 YEARS,
MINOR, -DO- -DO-

3. HARSHA
MINOR, -DO- -DO-
(MINOR RESPONDENTS ARE REPRESENTED BY THEIR MOTHER FIRST
RESPONDENT)

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 01-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC). No.204 of 2015

Dated this the 1st day of July, 2015.

O R D E R

The revision petitioner is the respondent in M.C.No.229/13 on the files of the Family Court, Chavara. The above M.C. was filed by the respondents herein, who are the wife and children of the revision petitioner, claiming maintenance allowance under Section 125 of the Cr.P.C. According to the first respondent, the revision petitioner has neglected them and refused to pay maintenance allowance to them since 20.11.2009. The first respondent has no job or any source of income and she is unable to maintain herself and the children; whereas the revision petitioner is conducting chitty business and earning Rs.30,000/- per month. The respondents claimed monthly maintenance allowance @ Rs.4,000/- to the first respondent and Rs.3,000/- each to the respondents 2 and 3.

2. The revision petitioner admitted the marital status of the first respondent and paternity of the respondents 2 and 3. But he denied the allegation that he has neglected them from the year 2009 onwards. According to the revision petitioner, the first respondent, failed to perform her marital obligations and she is residing separately without sufficient reasons. It was also contended that the first respondent had withdrawn Rs.1,00,000/- from the Indian Bank, Sasthamcotta branch, which was deposited by him in their joint account and for that a civil suit is pending. It is also contended that the quantum of maintenance allowance determined by the court below is excessive and disproportionate with his income. The legality of the entitlement of maintenance allowance and the correctness of the quantum fixed by the court below are under challenge in this revision petition.

3. Marital status and paternity are not in dispute. Though the revision petitioner denied that he had neglected the respondents from 2009 onwards, no evidence had been adduced to substantiate his claim

except his oral assertion. Going by the impugned order it is seen that the court below has meticulously analysed the oral evidence of P.W.1 and R.W.1 and arrived at a finding that the revision petitioner has not paid any amount towards maintenance allowance after 2009. Therefore, I do not find any reason to interfere with the findings of the court below as regards the entitlement of maintenance allowance.

4. Coming to the correctness of quantum of maintenance allowance, the learned counsel for the revision petitioner drew my attention to the quantum determined for the maintenance of the respondents 2 and 3 and submitted that the amount granted is more than what was claimed in the M.C. Going by the petition, it is seen that the first respondent has claimed Rs.3,000/- each for the respondents 2 and 3. But the court below went wrong and granted Rs.3,500/- each to the respondents 2 and 3 as maintenance allowance. Needless to say, the amount granted is more than what was claimed in the M.C. In the above view of the matter, I find that the quantum determined

by the court below as maintenance allowance of the respondents 2 and 3 requires modification in accordance with the amount claimed.

Consequently, the quantum of maintenance allowance granted to the respondents 2 and 3 will stand reduced to Rs.3,000/- each per month only. With this modification this R.P(FC) is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.