

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

RPFC.No. 213 of 2015 ()

MC 359/2014 of FAMILY COURT, NEDUMANGAD DATED 18-02-2015

REVISION PETITIONER(S)/RESPONDENT:

ANEESH KUMAR V.S, AGED 32 YEARS
S/O.VISWAMBARAN NAIR, SEEMA NIVAS, KACHANI
KARAKULAM.P.O., ARUVIKKARA VILLAGE, NEDUMANGADU TALUK.

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.N.MADHAVAN
SRI.S.MAHESH KUMAR
SRI.SAIJO HASSAN
SRI.PRATHAP PILLAI
SRI.BENOJ C AUGUSTIN
SRI.R.S.SARAT
SRI.VISHNU BHUVANENDRAN

RESPONDENT(S)/PETITIONERS:

1. AKILANADH, AGED 24 YEARS
D/O.SYAMALA KUMARI, SYAMALA MANDIRAM,KALLARA,
KOTTAKKAKOM MURI, VITHURA VILLAGE.695 306.

2. THARUNKRISHNA
(MINOR-AGED 11 MONTHS), SYAMALA MANDIRAM, KALLARA
KOTTAKKAKOM MURI, VITHURA VILLAGE
REPRESENTED BY HIS MOTHER AND GUARDIAN
1ST RESPONDENT.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

STU

K.HARILAL, J.

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R.P.(F.C) No. 213 of 2015

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Dated this the 25th day of June, 2015

ORDER

The revision petitioner is the respondent in M.C.No.359/2014 on the files of the Family Court, Nedumangadu, filed by the respondents herein, who are the wife and son of the petitioner, under Section 125 of the Cr.P.C, claiming maintenance allowance from the petitioner. According to the 1st respondent, she is the legally wedded wife of the petitioner and the 2nd respondent is the son born in that wedlock. The petitioner deserted the respondent from 14.12.2013 onwards and he refused to pay maintenance allowance to them. The 1st respondent has no job or any sources of income; whereas the petitioner is working in Police Department and getting a monthly income of ₹23,000/-. Further he is a moneylender getting ₹50,000/- per month. The 1st respondent claimed ₹10,000/- and the

2nd respondent claimed ₹8,000/- by way of monthly maintenance allowance.

2. The petitioner admitted the marriage with the 1st respondent and the paternity of the 2nd respondent. According to him, the 1st respondent deserted him and she is residing separately without sufficient cause. He denied the allegation that he is getting monthly income of ₹50,000/-; but he admitted that he is employed in Police Department and according to him, he is getting a net salary of ₹18,000/- per month after various deductions. He has to look after his parents also and a considerable amount is required for the same. After considering the rival pleas and evidence let in by both parties, the court below directed the petitioner to pay maintenance allowance @ ₹7,000/- to the 1st respondent and ₹500/- to the 2nd respondent. The legality of the entitlement of maintenance allowance and the correctness of the quantum determined by the court below are under challenge in this revision petition.

3. The learned counsel for the petitioner advanced arguments assailing the findings whereby the court below directed the petitioner to pay maintenance allowance at the rate specified above to the respondents . According to him, he is getting ₹18,000/- only after various deductions. Therefore, the quantum of amount determined by the court below is disproportionate with his income. So also, the court below has not considered his case that he has to look after his parents also and a considerable amount is required for the same.

4. Going by the impugned order, it is seen the marital status of the 1st respondent and the paternity of the 2nd respondent are not disputed. Though he contended that the 1st respondent is also employed and getting income, no evidence has been adduced to substantiate the said contention. In the absence of evidence, it can be safely concluded that the 1st respondent has no job or any other income. It is not disputed that the petitioner is getting a net

salary of ₹18,174/-. Going by various deductions in the salary certificate, it could be seen that ₹1,000/- is deducted towards GPF, ₹200/- towards Group Insurance Scheme and ₹300/- towards State Life Insurance. I am of the opinion that these deductions cannot be taken into account while considering the income of an employee, who is liable to pay maintenance allowance as the said deductions are his savings only. So, I find that his net salary can be taken more than ₹18,174/-. "Maintenance" includes provision for food, clothing, shelter, medical attendance, educational expenses etc. The 2nd respondent is aged six months only and I am of the opinion that a considerable amount is required for the maintenance during the period of infancy for the proper care and protection of the child. Even if the admitted amount is taken at its face value, I find that the quantum of amount determined by the court below is proportionate with the income of the petitioner and no interference is called for.

5. Having regard to the facts and circumstances of the case, the revision petitioner is given four months' time to pay the arrear, provided that, the revision petitioner shall pay half of the entire arrear within a period of two months from today and the remaining balance shall be paid within the next two months. In the event of failure to pay the first instalment within the specified time, this facility will stand cancelled automatically and the Family Court will be free to enforce the realisation of entire arrear in lump sum.

stu

Sd/-
K.HARILAL, JUDGE.

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P.A to Judge