

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

RPFC.No. 249 of 2015

AGAINST THE ORDER IN MC 243/2013 of FAMILY COURT,
NEDUMANGAD DATED 07-08-2014

REVISION PETITIONER/RESPONDENT:-

ANEESHMON,
S/O.RAJAN, MALANCHAUVIL VEEDU, VAVARAAMBALAM,
POTHMKODU.

BY ADVS.SRI.P.SAMSUDIN
SRI.K.C.ANTONY MATHEW
SRI.JITHIN LUKOSE

RESPONDENT(S)/PETITIONERS:-

1. ARCHANA RAJ, AGED 25 YEARS,
D/O.M.RAJENDRAN, AMBIKA BHAVAN, MOOLAYAM,
ALIYADU P.O. - 695 607, VENJARAMOODU,
THIRUVANANTHAPURAM DISTRICT.

2. ANEETTA, AGED 2 YEARS,
(MINOR REPRESENTED BY THE FIRST
RESPONDENT, MOTHER)
D/O.ARCHANA RAJ, AMBIKA BHAVAN, MOOLAYAM,
ALIYADU P.O. - 695 607, VENJARAMOODU,
THIRUVANANTHAPURAM DISTRICT.

R1-R2 BY ADV. SRI.D.SAJEEV

THIS REV.PETITION(FAMILY COURT) HAVING COME UP
FOR ADMISSION ON 04-08-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

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Dated this the 4th day of August, 2015

ORDER

The revision petitioner is the respondent in M.C. No.243 of 2013 on the files of the Family Court, Nedumangad. The above M.C. was filed by the respondents herein claiming maintenance allowance under Sec.125 of the Code of Criminal Procedure. The 1st respondent is the wife and the 2nd respondent is the daughter of the revision petitioner. According to the 1st respondent, the petitioner neglected them and refused to pay maintenance allowance from 11/9/2011 onwards. The 1st respondent having no job or income to maintain herself and the 2nd respondent; whereas the petitioner is getting a monthly income of ₹25,000/-.

Hence the 1st respondent claimed ₹8,000/- per month and the 2nd respondent claimed ₹4,000/- per month as maintenance allowance from the revision petitioner. The Family Court directed the petitioner to pay monthly maintenance allowance at the rate of ₹5,000/- to the 1st respondent and ₹2,000/- to the 2nd respondent. The legality of the entitlement of maintenance allowance and the correctness of the quantum of allowance fixed by the Family Court are under challenge in this revision petition.

2. The learned counsel for the petitioner drew my attention to the contentions raised in the objection filed by the petitioner before the Family Court and contended that the Family Court has not considered the entitlement of maintenance allowance in its correct perspective, particularly in view of the various valid contentions raised in the statement of objection filed by the petitioner. It was also contended that the quantum of maintenance allowance was fixed without considering the income of the petitioner.

3. Going by the impugned order, it is seen that

the marital status of the 1st respondent and the paternity of the 2nd respondent are admitted. I have meticulously gone through the various contentions raised in the objection. As rightly pointed out by the learned counsel for the petitioner, the question whether there are sufficient cause to leave the company of the petitioner, without forfeiting the right to claim maintenance has not been adverted to in the impugned order, in view of the various contentions raised by the petitioner. Similarly, the quantum of maintenance allowance was fixed without reasoning. Reasoning is the soul of a judicial order, without which, no judicial order can be sustained, in the eye of law.

4. In that view of the matter, this order will stand set aside and the matter is remitted back to the trial court for fresh consideration. The Family Court shall pass an order afresh affording an opportunity of being heard to both parties. The parties shall be allowed to adduce further evidence, if any. The Family Court shall pass an order afresh within a period of four

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months from today.

This RP (FC) is allowed.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge