

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

RPFC.No. 263 of 2015 ()

MC 310/2011 of FAMILY COURT, THIRUVANANTHAPURAM

REVISION PETITIONERS/PETITIONERS:

1. SERAB MARY
KATTANVILA VEEDU, THAMALAM
POOJAPPURA P.O. THIRUVANANTHAPURAM.
2. JOEMON, AGED 11
RESIDING AT KATTANVILA VEEDU, THAMALAM
POOJAPPURA PO, THIRUVANANTHAPURAM.
3. JYOTHIKA, AGED 6
RESIDING AT KATTANVILA VEEDU, THAMALAM, POOJAPPURA PO
THIRUVANANTHAPURAM (2ND AND 3RD PETITIONERS ARE MINOR
REPRESENTED BY 1ST PETITIONER MOTHER)

BY ADV. SRI.BASANT BALAJI

RESPONDENT/COUNTER PETITIONER:

JOHN, S/O, BALAKRISHNAN
T.C.NO.20/1718, RIVERVIEW, KATTANVILA VEEDU
THAMALAM, THIRUVANANTHAPURAM - 695 026

BY ADV. SRI.RAM MOHAN.G.
BY ADV. SRI.G.P.SHINOD
BY ADV. SRI.MANU V.
BY ADV. SRI.GOVIND PADMANAABHAN
BY ADV. SRI.AJIT G.ANJARLEKAR

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
15-09-2015, ALONG WITH RPFC. 412/2014, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.263 of 2015 and
R.P.(F.C.)No.412 of 2014

Dated this the 15th day of September 2015

O R D E R

The revision petitioner in R.P.(F.C.)No.412 of 2014 is the counter petitioner and the revision petitioners in R.P. (F.C.) No.263 of 2015 are the petitioners in M.C. No.310 of 2011 on the files of the Family Court, Thiruvananthapuram.

2. For the sake of convenience, the parties are referred to in this order as per their status before the court below.

3. The court below directed the counter petitioner to pay a monthly maintenance of Rs.4,000/- each to petitioner Nos.2 and 3. The claim for maintenance raised by the first petitioner was declined by the court below. Aggrieved by the order granting maintenance to petitioner Nos.2 and 3, the counter petitioner filed R.P.(F.C.)No.412 of 2014. The order of the court below declining to grant maintenance to the first petitioner is challenged in R.P. (F.C.) No.263 of 2015.

4. Heard both sides.

5. It is not disputed that the first petitioner is the wife and the second and the third petitioners are the children of the counter petitioner. According to the petitioners, the counter petitioner declined to maintain the petitioners from

23.5.2009 onwards. The counter petitioner is employed in the Government Press, earning an amount of Rs.15,000/- per month by way of salary. He is also earning an amount of Rs.20,000/- per month from the “Students Book Centre” run by him at Nirmankara. Thus the counter petitioner is earning a total amount of Rs.35,000/- per month. The petitioners have no source of income for their livelihood. They are depending on the parents of the first petitioner for their livelihood. The counter petitioner refuted the contentions of the petitioners and contended that the counter petitioner is not having Rs.15,000/- as salary. The counter petitioner is also not earning any amount from the “Students Book Centre” and he is not running the said centre. According to the counter

petitioner, the first petitioner is having 1½ acres of property, from which she is getting Rs.2,500/- per day.

Before the court below, there was also a contention that the building belonging to the counter petitioner was being in the occupation of the first petitioner and the first petitioner had rented out that building. Therefore, she is getting Rs.4,500/- per month by way of rent from that building.

The petitioners denied the same and stated that the tenant was there in the building till 2012 and thereafter, the petitioners started residing in the said house. So there is no income from that property.

6. Before the court below, PW1 was examined and Exts.P1 and P2 were marked for the petitioners. CPW1 was examined and Exts.D1 and D2 were marked for the

counter petitioner.

7. PW1 admitted before the court that PW1 is having 1.5 acres of property of her own. However, PW1 stated that she is not getting any income from the said property. According to the counter petitioner, PW1 is getting rubber from that property for Rs.2,500/- per day. Considering the evidence of PW1 and CPW1 and Ext.D1 order passed by the Family Court in the petition filed by the petitioner under the Protection of Women from Domestic Violence Act, the court below found that the petitioner is not entitled to get maintenance from the counter petitioner. She is having income from her landed properties. The court below further held that CPW1 did not produce any document showing his salary. There is no evidence to

rebut the evidence of PW1 with regard to the salary of CPW1. There is no material before the court to indicate that the counter petitioner is conducting the Students Book centre. Petitioner Nos.2 and 3 are school going children. Considering the relevant inputs, the court below awarded an amount of Rs4,000/- each per month as maintenance to petitioner Nos.2 and 3, who are the children of the counter petitioner. No circumstance has been brought to my notice to indicate that the order impugned is perverse or incorrect. Having gone through the relevant inputs, I am of the view that the court below correctly appreciated the evidence and came to the conclusion that the petitioner Nos.2 and 3 are entitled to get Rs.4,000/- each per month as maintenance from the revision petitioner.

In the said circumstances, I find no reason to interfere with the order impugned.

In the result, these revision petitions stand dismissed.

However, the revision petitioner in R.P. No.412 of 2014 is granted four months time to pay the entire arrear amount on condition that the revision petitioner will pay 50% of the arrear amount within two months, as requested by the learned counsel for the revision petitioner.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

dl

/ True copy /

PA to Judge