

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

RPFC.No. 384 of 2015

MC 108/2013 of FAMILY COURT,THRISSUR

REVISION PETITIONERS/PETITIONERS:

1. RINJU, AGED 25 YEARS
D/O.SUKUMARAN, THALYILAKATTIL HOUSE
NEAR MECHERY RAILWAY GATE PO, CHERUTHURUTHI
THALAPPILLY TALUK, THRISSUR DISTRICT 679531
2. MINOR SREYA, AGED 3 YEARS
D/O.RINJU, THALYILAKATTIL HOUSE
NEAR MECHERY RAILWAY GATE PO, CHERUTHURUTHI
THALAPPILLY TALUK
THRISSUR DISTRICT -679531, REPRESENTED BY MOTHER AND
GUARDIAN THE 1ST REVISION PETITIONER

BY ADV. SRI.A.N.SATHISH KUMAR

RESPONDENT/RESPONDENT:

SANTHOSH, AGED 34 YEARS
S/O.SUKUMARAN, MALAKULANGARA HOUSE, PO.PERIKANNUR
OTTAPPALAM TALUK, PALAKKAD DISTRICT - 678001

BY ADV. SRI.M.PREMCHAND

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.384 of 2015

Dated this the 30th day of October 2015

O R D E R

The revision petitioners are the petitioners in M.C. No.108 of 2013 on the files of the Family Court, Thrissur, who in this revision petition challenges the order passed by the court below dismissing M.C. No.108 of 2013.

2. Heard.

3. The revision petitioners filed M.C. No.108 of 2013 before the court below under Section 125 Cr.P.C. seeking for maintenance. The counter was filed by the respondent herein. While so, the petitioner was absent on 19.7.2014. The learned counsel submitted before the court below that

he would report no instruction after two weeks. The court below observed that time could not be granted. With the said observation, the court below dismissed M.C. No.108 of 2013.

4. The learned counsel for the revision petitioners submitted that the dismissal of the M.C. caused irreparable injury and substantial prejudice to the revision petitioners. The first revision petitioner is the wife and the second revision petitioner is the minor child of the respondent, aged one year. The respondent filed counter only on 24.2.2014 as per the proceedings of the court below. Thereafter, the case was posted to 1.4.2014. On that day, the revision petitioners were not present before the court below and in the said circumstances, the case was

adjourned to 30.4.2014. On that day, the case was notified to 19.7.2014. On 19.7.2014, the court below passed the following order:-

“Respondent present. Petitioner absent. Advocate for petitioner submits he will report no instruction after two week. I find time cannot be granted. Hence the petition dismissed.”

6. Having gone through the relevant inputs, I am of the view that it is only just and proper to grant one more opportunity to the revision petitioners to contest the matter on merits. For the said reason, the order impugned cannot be sustained and consequently, I set aside the same.

In the result, this revision petition stands allowed setting aside the order impugned and the matter is remitted to the court below for proceeding with M.C. No.108 of

2013 in accordance with law. The proceedings of the court below shall stand relegated to the stage prior to the dismissal of M.C. No.108 of 2013 on 19.7.2014. The revision petitioners shall appear before the court below on 23.11.2015 without further notice.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/2.11.2015

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PA to Judge