

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

RPFC.No. 385 of 2015 ()

ORDER IN MC 101/2012 OF FAMILY COURT, KOLLAM DATED 15-01-2015

REVISION PETITIONER/RESPONDENT IN THE M.C.:

JOY, S/O. BENEDICT,
JOY SADANAM, SINKARAPPALLY,
KODUVILA P.O, KIZHAKKEKKALLADA VILLAGE,
KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS/PETITIONERS IN M.C.

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1. REJI, D/O. GRACY, KATTUVILA THEKKATHIL,
PERUMON P.O, KOLLAM - 691 014.
 2. JESSIN JOY, AGED 15 YEARS, MINOR, KATTUVILA
THEKKATHIL, PERUMON P.O, KOLLAM - 691 014,
REPRESENTED BY MOTHER SMT. REJI, PERUMON P.O.,
KOLLAM - 691 014.

R1 & 2 BY ADV. SMT.T.S.MAYA (THIYADIL)
R1 & 2 BY ADV. SMT.K.A.SUNITHA

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.385 of 2015

Dated this the 2nd day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.101 of 2012 on the files of the Family Court, Kollam. The revision petitioner was directed to pay a monthly maintenance of ₹2,500/- each to each of the respondents.

2. Heard both sides.

3. The status of the first respondent as the wife and the second respondent as the minor son of the revision petitioner is not disputed.

4. The respondents would contend that the first respondent was deserted by the revision petitioner on 8.2.2002 and thereafter, the revision petitioner failed to maintain the respondents. The second respondent is studying in 8th standard in N.S.S.H.S School, Prakkulam. He needs money for his school fees, van fees etc. The revision petitioner

is a fisherman by profession, earning ₹20,000/- per month. He is a member of the Kerala Fisherman Welfare Fund Board.

5. The revision petitioner filed objection contending that he is not a fisherman. He also contended that he is suffering from 40% disability due to primary optic atrophy and hence, he is not in a position to do any work. He is depending upon his parents and brother for his livelihood.

6. Before the court below, PW1 was examined and Exts.P1 to P4 were marked for the respondents. CPW1 was examined and Exts.D1 and D2 were marked for the revision petitioner.

7. The revision petitioner produced Ext.D1 certificate showing that the revision petitioner is having 40% disability. The said disability is optic atrophy. According to the revision petitioner, because of the said disability, he is not in a position to do any work. Even though the revision petitioner stated that he was having disability, the first respondent stated that she never felt that the revision petitioner had any sort of disability on his eyes. According to PW1, the revision

petitioner was a fisherman even prior to her marriage. The revision petitioner contended that the revision petitioner used to go for fishing along with his father and after the death of his father, he stopped going for fishing. The evidence of PW1 would show that the father of the revision petitioner died even prior to the marriage of the revision petitioner with the first respondent and the revision petitioner was doing the fishing work through out after the marriage. Ext.P3 is the certificate issued by the Kerala Fisherman Welfare Fund Board, which would show that the revision petitioner is a member of the Kerala Fisherman Welfare Fund Board. He was a member from 1986 onwards. He continued to be a member even in 2014. It is clear from Ext.D1 that the disability is only a mild disability. There is also nothing before the court to show that the revision petitioner is not able to do any work due to the said disability. In the absence of any material to show that the revision petitioner was not able to do any fishing job or other job due to his disability, the court below found that the revision petitioner is an able bodied person, capable of doing

work and hence, he is bound to maintain the respondents.

8. Having gone through the relevant inputs, I do not find any reason to hold that the said finding of the court below suffers from any infirmity warranting interference by this Court.

9. Admittedly, the second respondent is a school going child. He requires money for his education and other welfare activities. The court below, after considering the entire aspects, including the status of the parties, the needs of the respondents and the probable income of the revision petitioner awarded the maintenance as stated above, which according to me, is not excessive or unreasonable. In the said circumstances, I find no reason to interfere with the quantum of maintenance awarded by the court below as well.

In the result, this revision petition stands dismissed. However, the dismissal of this revision petition will not take away the right, if any, of the revision petitioner in approaching the court below for modification of the order under Section 127 Cr.P.C. Needless to say that the respondents shall be at

liberty to get the order impugned executed through the court below.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

ScI/2.11.2015

True Copy

PA to Judge