

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

RPFC.No. 386 of 2015 ()

MC 300/2011 OF FAMILY COURT,TRIVANDRUM DATED 27-03-2015

REVISION PETITIONER(S)/COUNTER PETITIONER:

A.PRAMOD, AGED 36 YEARS
S/O. AYYAPPAN PILLAI, SCRA-147
T.C 21/561 MANNADI BHAGAVATHY NAGAR, KEEZHARANNOR
KARAMANA, THIRUVANANTHAPURAM

BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENT(S)/PETITIONER:

R.DEEPIKA, AGED 25 YEARS
D/O. RADHAGANAPATHY, T.C NO 38/787, MARAKKADA ROAD
CHALA, THIRUVANANTHAPURAM, PIN 695 007

R1 BY ADV. SRI.R.V.SREEJITH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.386 of 2015

Dated this the 23rd day of November, 2015

ORDER

The revision petitioner is the counter petitioner in M.C.No.300 of 2011 on the files of the Family Court, Thiruvananthapuram, who in this revision petition challenges the order passed by the court below directing the revision petitioner to pay ₹7,500/- per month to the respondent towards her maintenance.

2. Heard both sides.

3. When this matter has been taken up for hearing, the learned counsel for the revision petitioner has submitted that the revision petitioner was not granted sufficient opportunity to adduce evidence before passing the order impugned and in the said circumstances, the learned counsel has prayed for granting one more opportunity to the revision petitioner to adduce evidence.

4. The proceedings sheet of the court below would

show that the revision petitioner was present before the court below on 27.1.2015. However, the court below did not record the evidence of the revision petitioner on that day. No reason is seen recorded in the proceedings of the court below in this regard. On 3.2.2015, the court below recorded that the evidence was closed. It is not seen recorded as to why the evidence was closed. There is nothing in the proceedings of the court below to indicate that the evidence was closed on the submission at the bar. The learned counsel for the revision petitioner has submitted that the revision petitioner filed an application with medical certificate to condone his absence on 3.2.2015. However, the proceedings of the court below did not mention about the same.

5. Having gone through the proceedings of the court below in the light of the argument at the bar, I am of the view that it is only just and proper to grant one more opportunity to the revision petitioner to contest the matter on merits. For the said reason, I am inclined to set aside the order impugned.

In the result, this revision petition stands allowed, setting aside the order impugned and the matter is remitted to the court below for fresh consideration in accordance with law, affording reasonable opportunity to both sides to substantiate their contentions, as expeditiously as possible and at any rate, within three months from the date fixed for the appearance of the parties before the court below. The parties shall appear before the court below on **15.12.2015** without further notice.

I make it clear that if the revision petitioner fails to utilise the opportunity, the court below shall be at liberty to pass appropriate orders. The revision petitioner shall deposit ₹1,30,000/- (Rupees one lakh thirty thousand only) before the court below towards the arrears of interim maintenance within ten days from today. The respondent shall be at liberty to withdraw the amount, if the revision petitioner deposits the same.

B. SUDHEENDRA KUMAR
JUDGE