

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

RPFC.No. 398 of 2015 ()

AGAINST THE ORDER IN MC 454/2013 of FAMILY COURT, KANNUR
DATED 28-11-2014

REVISION PETITIONER(S)/RESPONDENT:

SASIDHARAN V.V, AGED 51 YEARS
S/O.KUNHIRAMAN NAMBIAR, KAKKOPRAVAN HOUSE
KOLATH VAYAL, KALLIYASSERY AMSOM DESOM
P.O.ANCHAMPEEDIKA, VIA MOTTAMMAL,
KANNUR TALUK-670331.

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENT(S)/PETITIONERS:

1. RAJANI M.C, AGED 43 YEARS
D/O.NARAYA NAMBIAR, RESIDING AT M.C.HOUSE
ANDOOR AMSOM, KODALLUR DESOM, P.O.NANICHERY
TALIPARAMBA TALUK-670563.

2. VARSHA, AGED 18 YEARS
D/O.SASIDHARAN, RESIDING AT M.C.HOUSE, ANDOOR AMSOM
KODALLUR DESOM, P.O.NANICHERY
TALIPARAMBA TALUK-670563.

3. ANJALI, AGED 13 YEARS
D/O.SASIDHARAN, RESIDING AT M.C.HOUSE, ANDOOR AMSOM
KODALLUR DESOM, P.O.NANICHERY, TALIPARAMBA TALUK
REPRESENTED BY MOTHER RAJANI M.C., D/O.NARAYA NAMBIAR
RESIDING AT M.C.HOUSE, ANDOOR AMSOM, KODALLUR DESOM
P.O.NANICHERY, TALIPARAMBA TALUK-670563.

FOR RESPONDENTS ADV. SRI.P.M.PAREETH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 19-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

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Dated: 19th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C. No. 454/2013 on the files of the Family Court, Kannur. The revision petitioner was directed to pay Rs. 2,500/- per month to the 2nd respondent and Rs. 2000/- per month to the 3rd respondent herein towards their maintenance.

2. Heard

3. The status of the parties is not disputed. .

4. The only challenge in this Revision Petition is the quantum of maintenance ordered by the court below.

5. RW1 stated that he is getting only an amount of Rs. 250/- per day from his job as a helper in a workshop. RW2 was also examined to prove the same. RW2 is the owner of the shop where RW1 is working. The court below disbelieved the evidence of RW2 on the reason that no register or document was produced before the court by RW2 to show that RW1 was an employee of RW2 and that he is paid only Rs. 250/- per day as

spoken to by RW2. From the evidence adduced before the Court, the court below found that RW2 was an interested person. Eventhough the revision petitioner had a contention that he was very weak physically, no material was produced before the Court to prove the same. The Court below observed that the revision petitioner is an able bodied person, who is bound to maintain the minor children. Disbelieving the evidence of RW1 and RW2 that the revision petitioner is getting only an amount of Rs. 250/- per day, the court below observed that even a coolie worker might be getting at least an amount of Rs. 500/- per day. The respondent Nos. 2 and 3 are minor daughters of the revision petitioner, who are studying in schools. The learned counsel for the revision petitioner has submitted that there was an earlier agreement whereby an amount of Rs. 75,000/- was agreed to be paid by the revision petitioner to the first respondent herein towards future maintenance of the children. However, it has been fairly conceded by the learned counsel for the revision petitioner that the said amount is not yet paid. Even other otherwise, it is the settled law that the statutory right of maintenance under Section 125 cannot be waived by an agreement. Taking into consideration of the needs of the minor children and the probable income of the revision petitioner, the court below directed the revision petitioner to pay maintenance as stated above. The quantum of maintenance ordered by the court below

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is not excessive or exorbitant. No circumstance has been brought to my notice to indicate that the order impugned suffers from any infirmity warranting interference by this Court.

In the result, this Revision Petition stands dismissed. The revision petitioner is granted two months to pay the arrears of maintenance.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE

ani/19/11/2015.

/truecopy/

P.S. to Judge