

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

RPFC.No. 413 of 2015 ()

ORDER IN MC 171/2013 OF FAMILY COURT, THALASSERY

REVISION PETITIONER/COUNTER PETITIONER:

MANOJ MULLOLI, AGED 45 YEARS
S/O LATE SOMAN, KOMATH VALAPPIL HOUSE
KANDAMKUNNU AMSOM DESOM, NEERVELI, P.O. NIRMALAGIRI
THALASSERY TALUK, KANNUR DISTRICT.

BY ADVS.SRI.C.P.PEETHAMBARAN
SRI.ANTONY LIJO M.X.

RESPONDENT(S)/RESPONDENTS/PETITIONERS:

1. ABHIRAM, AGED 15 YEARS
S/O MANOJ, (MINOR)
REPRESENTED BY THEIR MOTHER SHEEBA P. D/O SREEDHARAN
AGED 40 YEARS, OTHAYOTH HOUSE, KANDAMKUNNU AMSOM DESOM
NEERVELI, P.O.,NIRMALAGIRI THALASSERY TALUK
KANNUR DISTRICT.
2. ANURAG P., AGED 13 YEARS
S/O MANOJ, (MINOR)
REPRESENTED BY THEIR MOTHER SHEEBA P. D/O SREEDHARAN
AGED 40 YEARS, OTHAYOTH HOUSE, KANDAMKUNNU AMSOM DESOM
NEERVELI, P.O.NIRMALAGIRI THALASSERY TALUK
KANNUR DISTRICT.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.413 of 2015

Dated this the 17th day of November, 2015

ORDER

The revision petitioner is the counter petitioner in M.C.No.171 of 2013 on the files of the Family Court, Thalassery. The court below directed the revision petitioner to pay Rs.4,000/- per month each to each of the respondents herein towards their monthly maintenance. Aggrieved by the said order, this revision petition has been filed.

2. Service is complete. However, there is no appearance for the respondents. Heard the learned counsel for the petitioner.

3. It has been submitted by the learned counsel for the revision petitioner that the order impugned was passed by the court below without hearing the revision petitioner and in the said circumstances, the learned counsel has pleaded for granting an opportunity to the revision petitioner to contest

the matter on merits. It appears from the order impugned that the case stood posted for evidence on 31.5.2014. On that day, PW1 was examined-in-chief. However, PW1 was not cross-examined as the revision petitioner or his counsel was not present before the court. In the said circumstances, the court below proceeded to pass the order impugned stating that the evidence of PW1 was not challenged in cross-examination. The court below passed the order impugned on the same day directing the revision petitioner to pay maintenance as stated above.

4. Having gone through the order impugned, I am of the view that the court below should have granted reasonable opportunity to the revision petitioner to contest the matter on merits. Since the court below passed the order impugned without granting reasonable opportunity to the revision petitioner, I am of the view that the order impugned cannot be sustained for that reason alone.

In the result, this revision petition stands allowed, setting

aside the order impugned and the matter is remitted to the court below for fresh disposal of the matter in accordance with law, granting reasonable opportunity to the revision petitioner to contest the matter on merits. The proceedings of the court below shall stand relegated to the stage prior to the passing of the order impugned on 31.5.2014. The revision petitioner shall deposit Rs.30,000/- (Rupees thirty thousand only) before the court below towards interim maintenance within two weeks from the date fixed for the appearance of the revision petitioner before the court below. The revision petitioner shall appear before the court below on **4.12.2015**.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

ScI/17.11.2015

True Copy

PA to Judge