

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

RPFC.No. 419 of 2015 ()

ORDER IN MC 38/2015 OF FAMILY COURT, KOLLAM

REVISION PETITIONER(S)/RESPONDENT:

UGRASENAN, AGED 66 YEARS
S/O.MARTHANDAN, VINU BHAVANAM(NANDANAM)
POOTHAKKULAM CHERRI, POOTHAKKULAM VILLAGE
POOTHAKKULAM.P.O., KOLLAM DISTRICT.

BY ADV. SMT.S.L.SYLAJA

RESPONDENT(S)/PETITIONER:

GIRIJA DEVI, AGED 56 YEARS
D/O.SADASIVAN, SREEKRISHNA BHAVANAM, KONGAL CHERRI
KOTTAPPURAM VILLAGE, PARAVOOR.P.O.
KOLLAM DISTRICT.691 001.

R1 BY ADV. SRI.K.SIJU
R1 BY ADV. SMT.RENY ANTO

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.419 of 2015

Dated this the 18th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.38 of 2015 on the files of the Family Court, Kollam. The court below directed the revision petitioner to pay ₹2,500/- per month to the respondent herein towards her maintenance. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides.

3. The order passed by the court below is extracted hereunder:-

“Counter petitioner present. Petitioner is absent. Counter petitioner is directed to pay ₹2,500/- as maintenance to the petitioner. Petitioner is also amenable for that amount. Hence MC is allowed directing the counter petitioner to pay ₹2,500/- per month as maintenance.”

4. As per Annexure A2, the revision petitioner was directed to appear before the court below on 19.3.2015 in the above M.C. On that day itself, the court below passed the above said order. It is not stated in the order that the above

order was passed as the revision petitioner consented for the same. As per the order impugned, the revision petitioner was not represented by a lawyer also on that day. The court below should not have issued any such direction to the revision petitioner without recording evidence. Of course, the court can issue direction if both sides consent. Since the order impugned was passed without granting opportunity to the revision petitioner to contest the matter on merits, I am of the view that the order impugned is not legal, proper and correct and consequently, the same cannot be sustained.

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. The proceedings of the court below shall stand relegated to the stage prior to the passing of the order impugned on 19.3.2015. The parties shall appear before the court below on **10.12.2015**.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE