

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

RPFC.No. 115 of 2014

AGAINST THE ORDER IN MC 432/2012 of FAMILY COURT, PALAKKAD
DATED 31-01-2014

REVISION PETITIONER(S)/COUNTER PETITIONER :

UNNIKRISHNAN, AGED 49 YEARS,
S/O.PONNAN, KIZHAKKE VEEDU, VADAKKETHARA
KUNISSERY, PALAKKAD 678 681.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT(S)/PETITIONERS :

1. RAJANI P.K, AGED 44 YEARS,
W/O.UNNIKRISHNAN, KRISHNALAYAM, PALAKKALPARAMBU
VALLIKODE, PALAKKAD 678 594.

2. ARYA, AGED 8 YEARS (MINOR) ,
D/O.RAJANI P.K, KRISHNALAYAM, PALAKKALPARAMBU
VALLIKODE, PALAKKAD - 678 594.

3. AHIRAMI, AGED 5 YEARS (MINOR) ,
D/O.RAJANI P.K, KRISHNALAYAM, PALAKKALPARAMBU
VALLIKODE, PALAKKAD - 678 594.

(2ND AND 3RD MINORS REP.BY MOTHER, GUARDIAN
THE IST RESPONDENT RAJANI P.K)

BY ADV. SRI.P.K.MOHANAN(PALAKKAD)

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 29-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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K.HARILAL, J.

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R.P.(F.C) No.115 of 2014

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Dated this the 29th day of May, 2015

ORDER

The revision petitioner is the respondent in M.C.No.432/2012 on the files of the Family Court, Palakkad. The above M.C was filed by the respondents herein, who are the wife and children of the petitioner, claiming maintenance allowance, under Section 125(1) of the Cr.P.C. The 1st respondent is unemployed and she has no sources of income. According to her, she is unable to maintain herself and respondents 2 and 3; whereas the petitioner is a carpenter and he is getting ₹700/- per day, thereby earning not less than ₹20,000/- per month. Subsequently, the respondents filed C.M.P.No.345/2013, claiming interim maintenance allowance and the same was allowed; but no amount had been given in compliance with the said order. The petitioner was called absent and he was set ex parte.

Thereafter, the 1st respondent has adduced oral evidence in support of her claim. After analysing the evidence of the 1st respondent, the court below passed the impugned order directing the revision petitioner to pay maintenance allowance @ ₹3,000/- to the 1st respondent and ₹2,000/- each to the respondents 2 and 3. This order is under challenge in this revision petition.

2. The learned counsel for the revision petitioner submits that the impugned order is an ex parte order and the petitioner could not appear before the court below to contest the matter on merits. He has valuable contentions to oppose the application for maintenance. The learned counsel for the petitioner prayed for an opportunity to contest the M.C on merits. The learned counsel for the respondent opposed the said submission and pointed out that there was an interim order to pay interim maintenance, but the petitioner has not complied with the said order. Therefore, he is not entitled to get any lenient view in this matter.

3. Having regard to the facts and circumstances of the case, I am of the opinion that the petitioner can be given one more opportunity to contest the case on conditions. The impugned order will stand set aside on condition that the petitioner shall deposit half of the entire arrear in addition to ₹15,000/-, which was deposited in compliance with the interim order of this Court, within a period of two months from today and the respondents are allowed to realise the said amount. In case, the petitioner fails to comply with the said direction within the said time, the impugned order will stand in force and the respondents are at liberty to execute the impugned order in accordance with law. If the petitioner complies the above condition within the time, the court below shall restore the complaint on the files and dispose of the same, after affording an opportunity to adduce evidence to both parties, within a period of 'three' months from today.

The revision petition is disposed of.

K.HARILAL, JUDGE.

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