

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

RPFC.No. 186 of 2014

MC 125/2013 of FAMILY COURT, KASARAGOD

REVISION PETITIONERS/RESPONDENTS 1 & 3:

1. BINUTH KUMAR, AGED 34 YEARS
S/O.M.BABU POOJARY, RESIDING AT ABETTU MERE MAJAL
MERE MAJAL POST, BENTWAL TALUK.
2. AJITH KUMAR, AGED 27 YEARS
S/O.M.BABU POOJARY
PRESENTLY WORKING IN DUBAI REPRESENTED BY THE 1ST PETITIONER
WHO IS THE POWER OF ATTORNEY HOLDER OF THE 2ND PETITIONER.

BY ADVS.SRI.T.SETHUMADHAVAN (SR.)
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON

RESPONDENT/RESPONDENT:

BABU POOJARY
S/O.LATE MUNDAPPA POOJARY
RESIDING AT MUNDDANADKA HOUSE, MEEYAPADAVU POST
MEENJA VILLAGE MANJESHWAR VIA
KASARAGOD TALUK & DISTRICT.

BY ADV. SRI.K.JAJU BABU (SR.)
BY ADV. SMT.M.U.VIJAYALAKSHMI

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 17-9-2015, THE COURT ON 19-10-2015 PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.186 of 2014

Dated this the 19th day of October 2015

O R D E R

The revision petitions are respondent Nos.1 and 3 in M.C. No.125 of 2013 on the files of the Family Court, Kasaragod, who in this revision petition challenge the order passed by the court below directing the first revision petitioner to pay Rs.1,000/- and the third revision Petitioner to pay Rs.2,000/- to the respondent herein towards his monthly maintenance.

2. The respondent herein is the father of the revision petitioners. The respondent herein would contend that he was a salesman in an Arrack shop in Kerala till the banning

of arrack and he sacrificed his life for his children and wife. He provided facilities for the higher education of the revision petitioners. About eight years ago, the revision petitioners and their mother started residing with the 2nd respondent before the court below for their convenience, deserting the respondent herein. The respondent is not having any source of income for his livelihood. The first revision petitioner is a lecturer in Sree Narayana Guru College, Mangalore, getting more than Rs.50,000/- per month as salary. The 2nd revision petitioner is working as an Engineer in Dubai earning Rs.1,00,000/- per month. The respondent is having ill-health and hence, he is not in a position to do any job.

3. The revision petitioners contended that the

Family Court, Mangalore had passed an order directing the respondent herein to give maintenance to the wife of the respondent herein and it was only for the purpose of getting the said case withdrawn that this petition had been filed.

The revision petitioners further contended that the respondent is having landed properties. The first revision petitioner is only an instructor in an I.T.I., drawing only a salary of Rs.15,000/- per month.

4. Heard.

5. Before the court below, PW1 was examined for the respondent herein. RW1 was examined and Exts.B1 to B5 were marked for the revision petitioners.

6. The status of the respondent as the father of the revision petitioners is not disputed. RW1 stated that he is

only an instructor in an I.T.I. earning Rs.15,000/- per month. However, in the counter, it was not stated that RW1 was working as an instructor in I.T.I. RW1 admitted that his wife is also employed. RW1 stated that himself and his wife together are getting Rs.34,000/- per month as salary from their employment. The first revision petitioner is residing in his own house. The third respondent is not married and he is working in Dubai. RW1 admitted that the respondent herein is living separately. Exts.B2 to B4 are the documents relating to the cases pending between the respondent herein and his wife. The said documents have nothing to do with the present petition. The second respondent before the court below is the married daughter. Therefore, the court below did not direct her to pay any

maintenance.

7. The court below found that even though the respondent is having 1.76 acres of land in his name, the said land is under attachment as the said land was offered as security in a case. Ext.B5 document relates to a property having 15 cents, which is in the joint ownership of the respondent herein and others. PW1 stated that he is having right over 7 cents of property. The respondent herein is the father of the revision petitioners. Therefore, the revision petitioners are bound to maintain him. The respondent is aged 67 years. Considering the entire aspects of the case, including the income of the revision petitioners and the needs of the respondent, the court below directed the first revision petitioner to pay Rs.1,000/- and the 2nd

revision petitioner to pay Rs.2,000/- per month towards the maintenance of the respondent herein. The quantum of maintenance ordered by the court below does not appear to be excessive or unreasonable. No circumstance has been brought to my notice to indicate that the order passed by the court below suffers from any illegality, impropriety or incorrectness warranting interference by this Court.

In the result, this revision petition stands dismissed.

Sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

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PA to Judge