

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. 321 of 2014

AGAINST THE ORDER IN MC 268/2013 of FAMILY COURT,THRISSUR
DATED 7.6.2014

REVISION PETITIONER(S)/PETITIONER/RESPONDENT IN THE MC:

ABDUL LATHEEF, AGED 45 YEARS
S/O.MUHAMMED KUTTY, KALANKATTPARAMBIL HOUSE
CHELAKKARA P.O., THALAPPILLY TALUK, THRISSURDISTRICT.

BY ADV. SRI.K.I.SAGEER IBRAHIM

RESPONDENT(S)/PETITIONERS IN THE M.C:

1. NOUSHIYA, AGED 28 YEARS
D/O.HASSANAR, KALANKATT PARAMBIL HOUSE
CHELAKKARA P.O, THRISSUR.

2. FARSANA (MINOR), AGED 8 YEARS
D/O.NOUSHIYA, -DO-

3. BADUSHA (MINOR), AGED 5 YEARS
D/O.NOUSHIYA, -DO-

(MINORS REPRESENTED BY THEIR MOTHER AND GUARDIAN, NOUSHIYA,
THE IST RESPONDENT).

BY ADV. SRI.C.A.ANOOP

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 29-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

STU

K.HARILAL, J.

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R.P.(F.C) No.321 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. 268 of 2013 on the files of the Family Court, Thrissur. 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. According to the respondents, the petitioner has neglected them and refused to pay maintenance allowance from 2013 onwards. The revision petitioner resisted the claim of the respondents and contended that the 1st respondent has sufficient means to maintain herself and the respondents 2 and 3. He specifically contended that now the 1st respondent is conducting a grocery shop, which was being conducted by the petitioner. After considering the evidence on record, the court below arrived

at a finding that the 1st respondent has sufficient means to maintain herself; but directed the revision petitioner to pay maintenance allowance @ ₹ 3,000/- each to the respondents 2 and 3. The denial of maintenance allowance to the 1st respondent and the correctness of the quantum of maintenance allowance determined by the court below are under challenge in this revision petition.

2. Going by the impugned order, it is seen that the 1st respondent himself admitted that the petitioner was conducting the shop and now she has taken over the shop. So, the court below can be justified in denying maintenance allowance to the 1st respondent and I find no reason to interfere with this finding.

3. The paternity of the children is not disputed. So also, the petitioner has no case that he is physically disabled or incapacitated to do work so as to earn livelihood for his two children. "Means" employed under Section 125 signifies not only movable or immovable property; but also,

physical capacity of an able bodied man to do work so as to earn livelihood. The 2nd respondent is aged 8 years and the 3rd respondent is aged 5 years. They are school-going children. "Maintenance" includes provision for food, shelter, clothes, medical attendance and educational expenses. A considerable amount is required for day to day requirements of the respondents 2 and 3. In the above view of the matter, I find that the quantum of maintenance allowance determined by the court below is just and proper and no interference is called for.

4. Having regard to the facts and circumstances of the case, the petitioner is given 'four' months time to pay the arrear, if any, provided that half of the entire arrear shall be given within 'two' months and the remaining balance shall be given within the next 'two' months. In the event of failure to pay the first instalment in time, this instalment facility will stand automatically vacated and the respondents are at liberty to realise the entire arrear in

lump sum in accordance with law.

This revision petition is disposed accordingly.

Sd/-
K.HARILAL,
JUDGE.

stu

//True copy//

P.Ato Judge