

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

RPFC.No. 337 of 2014 ()

AGAINST THE ORDER IN MC 132/2013 of FAMILY COURT, TIRUR
DATED 26-04-2014

REVISION PETITIONER(S)/RESPONDENT :

ASHRAF E. AGED 39 YEARS
S/O. IRUMBUZHI AVALAN, MUNDENGAL HOUSE, PARAVOOR
KARGIL, PULIKKAL P.O., PIN-673 537.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENT(S)/PETITIONERS :

1. NASEEMA, AGED 29 YEARS
D/O. ASSAMIKANAKATH MUHAMMED KOYA
NEAR OTTUMMAL MUJAHID MOSQUE, PARAPPANANGADI P.O.
TIRURANGADI TALUK, MALAPPURAM DISTRICT-676 303.

2. FAVAS (MINOR), AGED 11 YEARS
S/O. NASEEMA, NEAR OTTUMMAL MUJAHID MOSQUE
PARAPPANANGADI P.O., TIRURANGADI TALUK
MALAPPURAM DISTRICT-676 303.

3. FASNA (MINOR), AGED 9 YEARS
D/O. NASEEMA, NEAR OTTUMMAL MUJAHID MOSQUE
PARAPPANANGADI P.O., TIRURANGADI TALUK
MALAPPURAM DISTRICT-676 303.

4. FASEELA (MINOR), AGED 7 YEARS
D/O. NASEEMA, NEAR OTTUMMAL MUJAHID MOSQUE
PARAPPANANGADI P.O., TIRURANGADI TALUK
MALAPPURAM DISTRICT-676 303. (MINOR RESPONDENTS 2 TO
REPRESENTED BY MOTHER 1ST RESPONDENT) .

5. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.

FOR R1 TO R5 BY ADVS. M/S. SRI.K.P.SUDHEER &
SRI.ARUN MATHEW VADAKKAN
BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH FOR R2

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 07-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
R.P. (FC) No. 337 of 2014
.....

Dated this the 7th day of October, 2015

ORDER

The Revision Petitioner is the respondent in M.C. No. 132 of 2013 on the files of the Family Court, Tirur. The court below directed the revision petitioner to pay an amount of Rs. 3000/- to the first respondent and Rs. 1000/- each to respondents 2 to 4 towards their monthly maintenance. Aggrieved by the said order, this Revision Petition has been filed.

2. Heard both sides.

3. It is not disputed that originally the revision petitioner was directed to pay an amount of ₹1000/- to the first respondent, ₹ 600/- to the 2nd respondent, ₹ 500/- to the 3rd respondent and ₹ 400/- to the 4th respondent herein towards their monthly maintenance. That order was passed on 31-1-2008. Thereafter, the respondents herein filed application for enhancement of the amount stating that the cost of living had

been increased considerably.

4. It is contended by the respondents that the first respondent is not having any income for livelihood. The revision petitioner is having income from his bakery business. He is having two acres of landed property, from which also he is getting income. He is getting a total income of Rs. 25,000/- per month.

5. The revision petitioner contended that the revision petitioner is suffering from varicose vein and hence, he is not in a position to do any work. He is not conducting any bakery business as contended by the respondents and he is also not conducting any quarry business. The first respondent is doing tailoring work, earning an amount of Rs. 5000/- per month. The status of the first respondent as the wife and respondent Nos. 2 to 4 as the children of the revision petitioner is not disputed.

6. Before the court below, PW1 was examined for the respondents herein. RW1 was examined and Exts. D1 to D14 were marked for the revision petitioner.

7. Eventhough the respondents herein contended that the

revision petitioner was getting an amount of Rs. 25,000/- per month, no material is available before the court to prove the same. Revision Petition stated that he is not getting any income from the bakery. He also stated that he is not getting any income from the quarry business. He further stated that he is having ailment and hence he is not in a position to do any manual work. The documents produced by the revision petitioner would show that the revision petitioner is having the disease of varicose vein. However, there is nothing on record to indicate that he is not in a position to do any manual work. Eventhough the respondents contended that the machine for quarrying work belonging to the revision petitioner is still being used for quarrying and from that, the revision petitioner is getting income, the revision petitioner did not specifically deny the same. He stated that he is only a coolie worker. However, no material has been produced before the court below to prove the income of the revision petitioner.

8. Taking into consideration of the entire facts and circumstances of the case, the court below correctly found that the revision petitioner is an able bodied person capable of doing work and earning money. Considering the needs of the respondents herein, the hike in the cost of living and the probable income of the revision petitioner, the court below fixed the

quantum of maintenance as above. The quantum of maintenance fixed by the court below does not appear to be excessive or unreasonable. In the said circumstances, I do not find any reason to interfere with the order impugned.

In the result, this Revision Petition stands dismissed.

Sd/-B. SUDHEENDRA KUMAR,
JUDGE.

Ani/

/truecopy/

P.S. ToJudge

-: 5 :-

R.P. (FC) No. 337 of 2014