

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

RPFC.No. 365 of 2014 ()

AGAINST THE ORDER IN MC 91/2013 of FAMILY COURT, CHAVARA DATED
28-06-2014

REVISION PETITIONER/RESPONDENT:

GOPALAKRISHNAN, AGED 35 YEARS
S/O.SUKUMARAN, RADHAKRISHNA BHAVAN
KANNIMEL MURI, VALLIKUNNAM VILLAGE, MAVELIKKARA TALUK
ALAPPUZHA 690501

BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH

RESPONDENTS/PETITIONERS:

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1. RENUKA, AGED 30 YEARS
D/O.SANKARI, LIJI BHAVAN, PUNNAKKULAM MURI
ADINADU VILLAGE, KARUNAGAPPALLY, KOLLAM-690 544
 2. ANJALIKRISHNAN, AGED 10 YEARS
MINOR, REPRESENTED BY HER MOTHER RENUKA, D/O.SANKARI
LIJI BHAVAN, PUNNAKKULAM MURI, ADINADU VILLAGE
KARUNAGAPPALLY, KOLLAM-690 544
 3. APARNAKRISHNAN, AGED 7 YEARS
MINOR, REPRESENTED BY HER MOTHER RENUKA, D/O.SANKARI
LIJI BHAVAN, PUNNAKKULAM MURI, ADINADU VILLAGE
KARUNAGAPPALLY, KOLLAM-690 544.

BY ADV. SRI.B.MOHANLAL

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

R.P.(F.C)No.365 of 2014

Dated 27th February, 2015

ORDER

This revision petition is directed against the order dated 28.6.2014 in M.C.No.91 of 2013 of Family Court, Chavara. The respondents are respectively the wife and the daughters of the revision petitioner and they filed M.C.No.91 of 2013 seeking maintenance under under Section 125 of the Code of Criminal Procedure from the revision petitioner. From the impugned order as also from the pleadings in this revision petition it is evident that the revision petitioner is not disputing the factum of his marriage with the first respondent as also the paternity of respondents 2 and 3. To substantiate the claim of maintenance the first respondent got herself examined as PW1 and Ext.A1 was marked on her side. On the side of the revision petitioner he was examined as RW1 and Exts.B1 to B7 were got marked. After an evaluation of the evidence the Family Court found that the revision petitioner is liable to maintain the respondents herein and consequently directed the revision petitioner to pay ₹ 1,500/- to the first respondent and ₹ 1,000/- each to respondents 2 and 3. This revision petition is filed against the said order.

2. I have heard the learned counsel for the revision petitioner.

3. As noticed hereinbefore, the revision petitioner is not disputing his marriage with the first respondent and also the paternity of respondents 2 and 3. The contentions raised in the revision petition as also the submissions made by the learned counsel for the revision petitioner would reveal that the revision petitioner is not seriously disputing his liability to maintain respondents 2 and 3 and he is also not having any serious dispute with respect to the quantum of maintenance fixed in their case. In short, evidently, the grievance of the revision petitioner is with respect to the fixation of liability to maintain the first respondent. When once it is found that the factum of marriage is not disputed to get absolved from the liability to maintain the wife the husband has either to show that the wife is able to maintain herself or that she has incurred a disqualification to make her disentitled to claim maintenance in view of the provisions under Section 125(4) Cr.P.C. Essentially, in this case, contention of the revision petitioner is that the first respondent wife is refusing to live with him without any sufficient cause and in the same breath he would admit the fact that a case has

been registered against him alleging commission of offence under Section 498A of the Indian Penal Code. The learned counsel would submit that the said case is pending consideration before the Court of Judicial First Class Magistrate Karunagappally. When that be the admitted position it cannot be said that the first respondent wife is refusing to live with the revision petitioner without any sufficient cause. Though the revision petitioner has taken up the contention that the first respondent is employed and therefore, she is in a position to maintain herself the revision petitioner did not have a case that he has adduced any evidence to support the said contention. In other words, no evidence whatsoever to establish that the first respondent is able to maintain herself was adduced before the Family Court and naturally, nothing to support the said contention has been brought to my notice. In such circumstances, the finding of the Family Court that the revision petitioner is bound to maintain the first respondent cannot be said to be a faulty one and therefore, it requires no interference in exercise of the revisional jurisdiction. Then, what survives for consideration is whether the quantum of maintenance fixed by the Family Court warrants interference ? The amount ordered to be paid as monthly maintenance to the first respondent is only ₹ 1,500/-. Considering the cost of living I have no hesitation to hold that the said amount cannot be said to be

exorbitant warranting interference in exercise of the revisional jurisdiction. Holding such a view when this Court was about to dismiss this revision petition the learned counsel appearing for the petitioner submitted that the revision petitioner has already deposited ₹ 1,00,000/- (Rupees One lakh only) with the Family Court, Chavara. It is also submitted by the learned counsel that the revision petitioner had sustained an injury at the place of work and in the said circumstances, he may be granted some reasonable time. Taking into account the aforesaid circumstances while confirming the order passed by the Family Court there will be a direction to the Family Court to keep in abeyance all further proceedings for executing the order in M.C.No.91 of 2013 for a period of four months to enable the revision petitioner to pay the amount fell in arrears in the meanwhile.

Subject to the above, this revision petition is dismissed.

Sd/-
C.T.RAVIKUMAR
Judge

TKS