

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

RPFC.NO. 407 OF 2014 ()

AGAINST THE ORDERIN MC 77/2013 OF FAMILY COURT, ATTINGAL DATED 18-10-2013

REVISION PETITIONER(S)/PETITIONER:

**VIJAYAKUMAR, AGED 49 YEARS,
S/O. BHASKARAN, KOONANVILAKAM, ANGAVILA,
VAKKOM, NOW RESIDING AT POST BOX NO.949,
MOHAMMED JASIN, ALMISA CONTRACTING COMPANY, SHARJAH,
U.A.E, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
SUBHASH, AGED 44, S/O VAMAN,
RESIDING AT 353, VILAYIL VEEDU, KUZHIVILA
CHIRAYINKEEZHU, THIRUVANANTHAPURAM DISTRICT, PIN - 695 304.**

BY ADV. SRI.M.RAJENDRAN NAIR

RESPONDENT(S)/RESPONDENTS:

- 1. SHEEJA, AGED 38 YEARS,
W/O VIJAYAKUAR, KOONANVILAKOM, ANGAVILA,
VAKKOM, CHIRAYINKIL TALUK, THIRUVANANTHAPURAM, PIN - 695 308.**
- 2. REVATHY, AGED 18 YEARS,
D/O VIJAYAKUMAR, RESIDING AT KOONANVILAKOM, ANGAVILA,
VAKKOM, CHIRAYINKIL TALUK, THIRUVANANTHAPURAM, PIN - 695 308.**

R1-R2 BY ADV. SRI.M.DINESH

**THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
20-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

OKB

K.HARILAL, J.

R.P(FC). No.407 of 2014

Dated this the 20th day of May, 2015.

O R D E R

1.The revision petitioner is the husband of the first respondent and the father of the second respondent. This revision petition is filed challenging the order passed in C.M.P. Nos.124/2014 and 125/2014 in M.C.No.77/2013 on the files of the Family Court, Attingal. M.C.No.77/2013 was filed by the respondents herein claiming maintenance allowance from the revision petitioner under Section 125 of the Code of Criminal Procedure.

2.It is the case of the revision petitioner that in the above M.C. the parties were directed to appear before the Counsellor for counselling and during that session the Counsellor enquired the possibility of settlement between the parties. The first respondent was not agreeable to settle the dispute

and live together and because of such an adamant stand taken by her the mediation was failed. Later, on 18/10/2013 when the case came back to the court, though there had been objection filed by the petitioner to the M.C., the court below without considering the objection, by the order dated 18/10/2013, allowed the maintenance allowance to the petitioner in M.C. at the rate of Rs.3250/- to each of the petitioners and an amount of Rs.30,000/- in lump towards arrear of maintenance on an assumption that an agreement was executed by the parties before the Principal Counsellor.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondents.

4. Going by the common order under challenge it is seen that C.M.P. No.125/2014 was filed to set aside an order passed on the basis of an agreement signed

before the Principal Counsellor of the court below as per Rules 35 of the Family Court Rules. The above petition was filed by the Power of Attorney holder of the petitioner herein. It was the case of the petitioner in the above petition that the first respondent was not agreeable to settle the dispute and live together. Consequently, the mediation was failed.

5. Going by the order passed in M.C.No.77/2013 it is seen that the parties executed an agreement before the Principal Counsellor and in that agreement the revision petitioner agreed to pay maintenance allowance at the rate of Rs.3250/- to each respondent from the date of order. So also he agreed to pay an amount of Rs.30,000/- in lump towards the arrear from the date of petition. Thus, what is stated in the Memorandum of this Revision Petition is incorrect and contrary to the findings of the court below.

6.As rightly held by the court below, the court has no power to review such an order passed on the basis of an agreement executed between parties. Therefore, I cannot find fault with the court below for dismissing C.M.P. No.124/2014 in M.C. No.77/2013. There is no illegality or procedural infirmity in the impugned order under challenge.

In the result, this R.P(FC) will stand dismissed.

Sd/-
K. HARILAL, JUDGE

okb.