

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

RPFC.No. 435 of 2014 ()

AGAINST THE ORDER IN MC 263/2012 of FAMILY COURT, KANNUR DATED
12.09.2014

REVISION PETITIONER(S)/RESPONDENT:

KAZHAKAKKARAN NARAYANAN, AGED 62 YEARS
S/O.KANNAN, THAUVARA, PERINTHATTA AMSOM AND DESOM
PORAKUNNU POST - 670 306, TALIPARAMBA TALUK
KANNUR DISTRICT.

BY ADVS.SRI.O.RAMACHANDRAN NAMBIAR
SRI.GEEN T.MATHEW

RESPONDENT(S)/PETITIONER:

KUTTIYADAN MEENAKSHI, AGED 60 YEARS
D/O.KANNAN, PERINTHATTA AMSOM AND DESOM
PORAKUNNU POST - 670 306, TALIPARAMBA TALUK
KANNUR DISTRICT.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

R.P(F.C) No. 435 of 2014

Dated this the 16th day of January, 2015

ORDER

This petition is directed against an order dated 12.9.2014 of the Family Court, Kannur in M.C.No.263/2012 filed under section 127 of the Code of Criminal Procedure for enhancement of the monthly maintenance. The revisionist is the husband of the respondent. Earlier, the respondent filed M.C.No.121/1991 before the Court of the Judicial First Class Magistrate, Payyannur seeking an order of maintenance against the petitioner herein. As per Ext.P1 order dated 23.8.2000 it was allowed and the petitioner was directed to pay an amount of Rs.500/- towards maintenance to the respondent. The respondent sought for enhancement of the amount of maintenance after more than a decade by filing M.C.263/2012 under section 127 Cr.P.C. before the Family Court, Kannur. After considering the contentions of both the parties and taking evidence adduced by the parties in support of their respective contentions the family court passed the impugned order enhancing the amount of maintenance from to 500

to 2000 per month with effect from the date of petition viz., 6.8.2012. The petitioner has come up before this Court by filing the captioned revision petition challenging the said order.

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

3. There can be no doubt with respect to the position that the petition for enhancement of the maintenance ordered could be filed under section 127 Cr.P.C on changed circumstances. It is evident that an amount of Rs.500/- was ordered as per Ext.P1 as early as on 23.8.2000. Evidently, the respondent took up the contention that due to the hike in the cost of living she is finding it very extremely difficult to meet on with the meagre amount. That fact was taken into account by the family court. The petitioner is a military pensioner. According to the respondent he is getting a monthly pension of Rs.10,000/-. The petitioner herein disputed the same and contended that he is getting only a monthly pension of Rs. 6,610/-. At the same time, he withheld the pension passbook. The family court found that the pension book is in the custody of respondent and therefore if he wanted to refute the contention and to establish that he is not getting Rs.10,000/- by way of monthly

pension he could have produce the passbook to prove that he is getting only an amount which is less than that. In that view of the matter the family court took adverse inference against the petitioner for having withheld the said document. The petitioner did not dispute the fact that he is a military pensioner and he is getting pension. He has also not disputed the fact that the pension book is available with him. In the said circumstances to prove his income by way of a pension the best document available was the pension passbook and virtually the petitioner withheld that document. In such circumstances I am of the view that the family court was perfectly justified in drawing such adverse inference. Now, the question to be decided is whether the order of the family court in enhancing the amount of maintenance from 500 to 2,000/- requires any interference by invoking the revisional jurisdiction. Taking into account the hike in the cost of living I am of the considered view that the enhancement is very reasonable and it leaves no room for interference by the revisional court. The amount now fixed cannot be said to be exorbitant. The petitioner is also aggrieved by the fact that the family court ordered enhancement from the date of petition viz., from 6.8.2012. Evidently, the petition for enhancement viz.,

M.C.No.263/2012 was filed by the petitioner on 6.8.2012 and the delay in disposal occurred on account of the delay in consideration. In such circumstances it is permissible to grant enhancement from the date of petition going by the decision in **Joy v Sherly.P.S and another** reported in 2014(4) KHC 923. In the said decision this Court relying on a decision of the Hon'ble Apex Court in **Richhpal Singh Meena v. Ghasi @ Ghisa and others** reported in 2014(3) KHC SN 25 (SC) held that delay in disposal of maintenance cases could be taken as a ground for awarding maintenance from the date of petition, itself. In view of the said decision I do not find any reason to interfere with the order of the family court in granting maintenance from the date of petition. In short, I do not find any reason to interfere with the order passed by the family court in M.C.No.263/2012. Consequently, this revision petition is liable to fail and accordingly it is dismissed.

Sd/-

C.T.RAVIKUMAR, JUDGE.

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