

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

RP(FC)No. 460 of 2014 ()

AGAINST THE ORDER IN MC 364/2013 of FAMILY COURT, NEDUMANGAD
DATED 21-08-2014

REVISION PETITIONER(S)/RESPONDENT:

G.RAJAN, AGED 63 YEARS
S/O. GOPALAPANICKER, RESIDING AT KUZHIKATTEYKKAL VEEDU
CHANGA P.O., VELLARADA VILLAGE, NEDUMANGAD TALUK
THIRUVANANTHAPURAM.

BY ADV. SRI.A.CHANDRA BABU

RESPONDENT(S)/REVISION PETITIONER:

NIRMALA, AGED 50 YEARS
D/O. BHAI, RESIDING AT REVATHY, MAMOODU
VELLANADU, VELLANADU VILLAGE, NEDUMANGADU
THIRUVANANTHAPURAM.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.P.(FC).460/14

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A1:TRUE COPY OF THE LOK ADALAT CASE NO.410/2011 FILED
BEFORE THE NEDUMANGAD TALUK LEGAL SERVICES COMMITTEE.

ANNEXURE A2:TRUE COPY OF THE ORDER DATED 5.06.2011 IN LOK ADALAT
CASE NO.410/2011.

ANNEXURE A3:CERTIFIED COPY OF THE ORDER DATED 21.8.2014 IN
M.C.NO.364/2013 PASSED BY THE FAMILY COURT,
NEDUMANGAD.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.A.TO JUDGE

C.T. RAVIKUMAR, J.

=====

R.P.(F.C). No.460 OF 2014

=====

Dated this the 20th day of January, 2015

ORDER

This revision petition is filed against the order of the Family Court, Nedumangad in M.C.No.364 of 2013. The revisionist was the respondent therein. Earlier, the respondent herein filed a petition seeking maintenance from the revision petitioner before the Lok Adalat organised by the Nedumangad Taluk Legal Services Committee. Annexure- A2 is the order passed thereon. Evidently, it is an order based on settlement. The petitioner was paying monthly maintenance @ ₹1250 to the respondent herein based on the said order. The petitioner challenged Annexure-A2 order before this Court by filing W.P.(C). 3472 of 2012. Admittedly, the said writ petition was dismissed. The petitioner had also unsuccessfully attempted an appeal viz., W.A.No.1772 of 2013 against the same. Later, the respondent herein filed M.C.No.364 of 2013 before the

Family Court, Nedumanagad seeking enhancement of rate of maintenance. Annexure-A3 is the order passed thereon whereby the Family Court enhanced the rate of monthly maintenance from ₹1250 to ₹3000. This revision petition is filed against the said order. The contention of the revision petitioner is that the Family Court had failed to consider the fact that there is no legal marriage between the revision petitioner and the respondent. It is also contended that in fact, the respondent is having a living spouse. That apart, it is contended that the revision petitioner is a heart patient and he is undergoing treatment. It is also contended that the Family Court failed to consider the issue regarding the status of the parties viz., whether they are husband and wife while considering the petition under section 127 Cr.P.C. This revision petition has been filed, inter alia, raising the said contentions.

2. I have heard the learned counsel for the revision petitioner. From the facts expatiated above, it is evident that earlier the respondent herein claimed maintenance from the revision petitioner

and for that purpose she approached the Lok Adalat. Annexure- A2 is the award passed thereon based on a settlement. Evidently, the petitioner has been paying monthly maintenance to the respondent in terms of Annexure- A2 order. While so, the respondent filed M.C.364 of 2013 under section 127 seeking enhancement of the rate of maintenance. The Family Court found that there is change in circumstances warranting enhancement. It is based on the said conclusion arrived at by the Family Court that the impugned Annexure-A3 order was passed enhancing the rate of maintenance. For the purpose of considering the question whether there occurred change in circumstances, the Family Court relied on a decision of the Hon'ble Apex Court in **Bhagwan Dutt v. Kamala Devi [AIR 1975 SC 93]**. The Hon'ble Apex Court held therein that what is required is to maintain a standard of living which is neither luxurious nor penurious, but is modestly consistent with the status of the family. The question whether there is any change in the circumstances was considered in the light of the decision of this Court in **Meenakshi v. Balakrishnan [1980 Cri.LJ 1200]**. In the said case, it was held that

“change in circumstances” means change in the existence of circumstances of the party paying or receiving allowance which would justify an increase or decrease of the amount of the monthly payment originally fixed. Evidently, hike in the cost of living was taken into consideration. Annexure -A2 order was passed as early as on 5.6.2011. As per Annexure-A3 order, taking into account the circumstances such as cost of living, the Family Court enhanced the rate of maintenance from ₹1250 to ₹3000. In such circumstances, I do not find any illegality and impropriety on the part of the Family Court in ordering enhancement of maintenance. Enhanced amount cannot be said to exorbitant. In the light of the discussions as above, I have no hesitation to hold that this revision petition merits no consideration and it is liable to fail. Accordingly, it is dismissed.

Sd/-

**C.T. RAVIKUMAR
(JUDGE)**

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010