NC: 2024:KHC-D:18410
RPFC No. 100125 of 2024
C/W RPFC No. 100099 of 2024

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

REV.PET FAMILY COURT NO. 100125 OF 2024
C/W
REV.PET FAMILY COURT NO. 100099 OF 2024

IN RPFC NO. 100125 OF 2024:

BETWEEN:

1. SMT. MIZABAH
   W/O. KHALID ROSHAN KITTUR,
   AGE: 38 YEARS,
   OCC: HOUSEHOLD WORK,

2. MASTER MOHAMMED ZAID
   S/O. KHALID ROSHAN KITTUR,
   AGE: 14 YEARS (MINOR),
   OCC: STUDENT,

3. MASTER MOHAMMED UBAID
   S/O. KHALID ROSHAN KITTUR,
   AGE: 12 YEARS (MINOR),
   OCC: STUDENT,

   SINCE PETITIONER NO.2 AND 3 ARE
   MINORS R/BY THEIR MINOR GUARDIAN
   MOTHER I.E., PETITIONER NO.1,
   ALL ARE R/O: HUBLI, NOW RESIDING
   C/O. MEHABOOBA BEGUM A. MUJAWAR,
   #TAGORE ROAD, GADAG,
   TQ: AND DIST: GADAG.

... PETITIONERS

(BY SRI. SADIQ N. GOODWALA, ADVOCATE)

V N BADIGER
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Location: HIGH COURT OF KARNATAKA DHARWAD BENCH
Date: 2024.12.20 12:25:34 +0530

AND:

SRI. KHALID ROSHAN
S/O. ABDUL RAZAK KITTUR,

AGE: 43 YEARS,
OCC: SOFTWARE ENGINEER,
R/O: H.NO.40, NEAR GANESH GUDI,
BEHIND SHELL PETROL PUMP,
KUSUGAL ROAD, KESHWAPUR,
HUBBALLI, DIST: DHARWAD-580 023.

… RESPONDENT

(BY SRI. R.H. ANGADI, ADVOCATE)

THIS RPFC IS FILED UNDER SEC.19(4) OF THE FAMILY COURT ACT, 1984, PRAYING TO MODIFY THE ORDER DATED 15.05.2024 PASSED BY I ADDL. PRL. JUDGE FAMILY COURT, AT GADAG IN CRL.MISC.PET.NO.184/2023, BY ALLOWING THE PETITION IN THE INTEREST OF JUSTICE.

IN RPFC NO. 100099 OF 2024:

BETWEEN:

SRI. KHALID ROSHAN
S/O. ABDUL RAZAK KITTUR,
AGE: 44 YEARS, OCC: ALLEGED TO BE
A SOFTWARE ENGINEER,
R/O: H.NO.40, NEAR GANESH GUDI,
BEHIND SHELL PETROL PUMP,
KUSUGAL ROAD, KESHWAPUR,
HUBBALLI-580 023.

R/BY HIS GPA HOLDER,
SHRI. JUNED ALI, S/O MADARSAHEB,
AGE: 46 YEARS, OCC: PRIVATE SERVICE,
R/O: H.NO.301, GM NEST APARTMENT,
THANISANDRA MAIN ROAD,
BENGALURU-560 077,
PRESENTLY RESIDING AT HUBBALLI.

… PETITIONER

(BY SRI. R.H. ANGADI, ADVOCATE)

AND:

1. SMT. MIZABAH
   W/O. KHALID ROSHAN KITTUR,
   AGE: 39 YEARS,
   OCC: HOUSEHOLD WORK,

2. MASTER MOHAMMED ZAID
   S/O. KHALID ROSHAN KITTUR,
   AGE: 15 YEARS (MINOR),
   OCC: STUDENT,

3. MASTER MOHAMMED UBAID
   S/O. KHALID ROSHAN KITTUR,
   AGE: 13 YEARS (MINOR),
   OCC: STUDENT,

   (SINCE PETITIONER NO.2 AND 3 ARE
   MINORS THEY ARE R/BY THEIR MINOR
   GUARDIAN MOTHER I.E., PETITIONER NO.1.)

   ALL ARE R/O: HUBLI, NOW RESIDING AT
   C/O. MEHABOOBA BEGUM A. MUJAWAR,
   #TAGORE ROAD, GADAG,
   TQ: AND DIST: GADAG-582 101.

… RESPONDENTS

(BY SRI. SADIQ N. GOODWALA, ADVOCATE)

THIS RPFC IS FILED UNDER SEC.19(4) OF THE FAMILY COURT ACT, 1984, PRAYING TO SET ASIDE THE IMPUGNED ORDER IN CRL. MISC.NO.184/2023, DATED 15.05.2024, BY THE I ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, GADAG, AND CONSEQUENTLY DISMISS THE PETITION FILED BY RESPONDENT WIFE AND HER CHILDREN, TO MEET THE ENDS OF JUSTICE.

THESE PETITIONS ARE COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order dated 15.05.2024, whereby the Court had granted Rs.15,000/- as maintenance to the wife and Rs.10,000/- each to both the children, both the husband and wife are before this Court.

2. The RPFC No.100125/2024 is filed by the wife and the RPFC No.100099/2024 is filed by the husband.

3. The wife had filed petition seeking maintenance of an amount of Rs.1,00,000/- for maintenance and also litigation expenses. It is her case that she has no sources of income. The husband is software engineer and he is getting monthly income of Rs.3,00,000/- per month and also owns properties at Bengaluru, Hubballi and Kalaghatagi and is also having an apartment at Bengaluru and getting rent of Rs.60,000/- per month. Apart from that he is having agricultural lands and failed to maintain the wife.

4. It is the case of the husband that wife herself has deserted company of the husband and she is not entitle for any maintenance.

5. The Court considering the respective cases of both the parties has come to the conclusion that wife is staying away from the husband on a reasonable cause and when it comes to the income, the Court had considered the EXs.P.19-23 i.e. RTC extracts in respect of plot Nos.267, 268, 287 and 288 situated at Kusugal. Ex.P.23 is the RTC in respect of Plot No.77 situated at Rayanal, Tq.Hubballi which shows that the husband is having landed properties and also is paying installment of an amount of Rs.1,84,463/- and considering the salary of the petitioner, the Court had granted an amount of Rs.15,000/- to the wife and Rs.10,000/- each to the children.

6. Learned counsel appearing for the wife submits that wife has to take care of herself and also to take care of two children and she has no sources of income. When the evidence is on record to show the financial capacity of the husband, the Court ought to have granted reasonable maintenance. Further,

the Court had granted the maintenance only from the date of order it ought to have been from the date of petition.

7. Learned counsel appearing for the respondent-husband submits that earlier he is paying Rs.20,000/- as maintenance and as per the interim order of this Court he is paying maintenance of Rs.22,000/-per month.

8. It is submitted that the husband has to take care of his old aged parents who are suffering from health aliments. It is submitted that the interim order that is granted by this Court may be confirmed.

9. Having heard the learned counsel appearing on either side, perused the material on record.

10. There is no dispute about the income of the husband i.e. Rs.60,000/- per month and also there are other properties which are part of the record. It is his case that he has to take care of his old age parents. As well, the wife has to take care of herself and two children. The husband is ready to pay an amount of Rs.22,000/- per month as maintenance. Considering all the facts, this Court is of the view that Rs.25,000/- would be an appropriate amount. The amount that

is granted shall be from the date of petition but not from the date of order as ordered by the trial Court. In that view of the matter, this Court is passing the following:

ORDER

1) The order dated 15.05.2024 passed by the I Addl. Prl. Judge Family Court, Gadag in Crl. Misc. No.184/2023 is modified and the amount of maintenance that is granted is reduced from Rs.35,000/- to Rs.25,000/- .

2) The amount granted is from the date of petition.

3) Accordingly, **RPFC No.100125/2024** and **RPFC No.100099/2024** ***are disposed of.***

4) The Registry is directed to transfer any amount in deposit to the trial Court and wife is at liberty to withdraw the same.

5) All the pending IAs in this petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

HMB
CT:BCK
LIST NO.: 1 SL NO.: 30