



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 19TH DAY OF FEBRUARY 2025 / 30TH MAGHA, 1946

RPFC NO. 147 OF 2020

AGAINST THE ORDER DATED 29.02.2020 IN MC NO.155 OF 2016 OF
FAMILY COURT, KOTTAYAM AT ETTUMANOOR

REVISION PETITIONERS/PETITIONERS:

- 1 MERIN KURIAN
 AGED 38 YEARS, WIFE OF ZACHARIAH.P.M.,
 HOUSSEWIFE, ANCHERIPUTHENPURACKAL HOUSE,
 VADAVATHOOR P.O.,
 NEAR PONPALLY, KOTTAYAM.
 - 2 ABHIJITH ZACHARIAH (MINOR)
 AGED 14 YEARS, SON OF ZACHARIAH.P.M.,
 ANCHERIPUTHENPURACKAL HOUSE,
 VADAVATHOOR P.O.,
 NEAR PONPALLY, KOTTAYAM,
 REPRESENTED BY MOTHER MERIN KURIAN.
 - 3 ASHIN ZACHARIAH (MINOR)
 AGED 11 YEARS, SON OF ZACHARIAH.P.M.,
 ANCHERIPUTHENPURACKAL HOUSE,
 VADAVATHOOR P.O., NEAR PONPALLY,
 KOTTAYAM, REPRESENTED BY MOTHER MERIN KURIAN.
- BY ADVS.
BASIL MATHEW
SRI.NINAN JOHN
SMT.SANJANA SARA VARGHESE ANNIE

RESPONDENT/RESPONDENT:

ZACHARIAH P.M.
AGED 46 YEARS, SON OF LATE MATHEW,
ASSISTANT PROFESSOR,

RPFC No. 147 of 2020

..2..



2025:KER:13970

PULLUPARAMPIL HOUSE,
MALAM P.O., KOTTAYAM.

BY ADVS.
SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.V.T.LITHA
SMT.K.R.MONISHA
SMT.SHRUTHI SARA JACOB
SRI.V.VINCENT DIDACOSE
SMT.RAVEENA NAZ

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 19.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



ORDER

This Revision Petition has been filed challenging the order passed by the Family Court, Kottayam at Ettumanoor in M.C. No. 155 of 2016 dated 29.02.2020.

2. The 1st petitioner is the wife of the respondent. The 2nd and 3rd petitioners are the children of the 1st petitioner and the respondent. The petitioners filed a maintenance case against the respondent claiming monthly maintenance at the rate of Rs.8,000/- for the 1st petitioner and Rs.10,000/- each to the 2nd and 3rd petitioners. The Family Court after evaluating the evidence disallowed the claim of the 1st petitioner for maintenance and granted monthly maintenance of Rs.5,000/- to the 2nd petitioner and Rs.4,000/- to the 3rd petitioner. It is challenging the said order, the petitioners preferred this revision petition.

3. I have heard Sri.Basil Mathew, the learned counsel for the petitioners and Smt.K.R.Monisha, the learned counsel



for respondent.

4. The marriage and paternity are not in dispute. Admittedly, the petitioner is a Government employee. He is working as Assistant Professor at Rajiv Gandhi Institute of Technology, Pampady. According to the petitioners, the respondent is drawing a monthly salary of Rs.75,000/-. But there is no evidence to prove the said fact. However, the respondent has admitted that he is drawing a monthly salary of Rs.58,000/-.

5. The Family Court disallowed the claim of the 1st petitioner for maintenance on the ground that there is no evidence to prove that she is not able to maintain herself. The 1st petitioner has admitted in the petition and when she was examined as PW1, that she was working as a Clerk in a private finance company, namely Malayalam Bankers. However, her definite case is that she lost her job one month prior to the filing of the petition. The Family Court found that since she had admitted that she was having job and lost it



one month prior to the filing of the petition, it was up to her to prove the same. The Family Court further found that in the absence of any positive evidence to show that she has lost the job it has to be presumed that she is still having job and is able to maintain herself. I cannot subscribe to the said finding of the Family Court. The fact that the 1st petitioner lost her job one month prior to the petition is not in dispute. In other words, the fact that the 1st petitioner has lost her job prior to one month has been admitted by the respondent in the objection statement as well as in his chief examination. So an admitted fact need not be proved. Since the 1st petitioner does not have any job or source of income, the respondent being her husband is legally and morally bound to maintain her. The 1st petitioner has claimed Rs.8,000/- per month as maintenance and the 2nd and 3rd petitioners have claimed Rs.10,000/- per month as maintenance. There is a specific pleading in the petition for maintenance that the petitioners require the above mentioned amount for their



maintenance. It is pertinent to note that the said specific pleading has not been controverted in the objection statement.

6. Taking into account the entire facts and circumstances of the case, I am of the view that the 1st petitioner requires Rs.6,000/- per month for her maintenance. So far as the children are concerned, only the quantum is in dispute. At the time of filing the petition in the year 2016, the 2nd petitioner was aged 10 years and the 3rd petitioner was aged 7 years. Both are students and studying in school. Considering the requirements of the 2nd and 3rd petitioners and the means of the respondent, I am of the view that the monthly maintenance granted by the Family Court needs to be enhanced. Rs.7,000/- per month to the 2nd petitioner and Rs.6,000/- per month to the 3rd petitioner would be just and reasonable.

For the reasons stated above, the finding of the Family Court in the impugned order that the 1st petitioner is not

RPFC No. 147 of 2020

..7..



2025:KER:13970

entitled to maintenance is hereby set aside. The respondent is directed to provide maintenance to the 1st petitioner at the rate of Rs.6,000/- per month, to the 2nd petitioner at the rate of Rs.7,000/- per month and to the 3rd petitioner at the rate of Rs.6,000/- per month from the date of the petition.

The revision petition is allowed as above.

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

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RPFC No. 147 of 2020

..8..



2025:KER:13970

APPENDIX OF RPFC 147/2020

PETITIONER ANNEXURES

ANNEXURE A1 CERTIFIED COPY OF THE ORDER M.C.NO.155/2016
DATED 29TH DAY OF FEBRUARY, 2020 ON THE FILE
FAMILY COURT, KOTTAYAM AT ETTUMMANOOR.