

Ramesh Vs. Praveena

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Court : Kerala

Decided On : Jul-31-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Ramesh

Respondent : Praveena

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 31^T DAY OF JULY 2014 9TH SRAVANA, 1936 RPF.No. 191 of 2014 () -----
AGAINST THE

ORDER

IN M.P8392012 IN M.C2702010 OF FAMILY COURT, THRISSUR REVISION PETITIONER(S)/PETITIONER/RESPONDENT:

----- RAMESH,
AGED 36 YEARS S/O.ASARIPURAYIL MANI, PUKIKKODE P.O., CHELAKKARA TALAPPILLY TALUK, THRISSUR DISTRICT. BY ADV. SRI.P.K.SAJEEV
RESPONDENT(S)/RESPONDENT/PETITIONER:

----- PRAVEENA D/O.LALITHA,
PADINJARETHIL VEEDU, CHEMBANPADI KANJIRASSERI DESOM, IRUNILAMKODE P.O. MULLURKKARA VILLAGE, THALAPPILLY TALUK, THRISSUR PIN68058. R BY ADV. SRI.K.R.AVINASH (KUNNATH) R BY ADV.

SRI.ABDUL RAOOF PALLIPATH THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON3107- 2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: RPFC.No. 191 of 2014 () APPENDIX PETITIONER'S ANNEXURES: A1: COPY OF PETITION IN M.C2702010 A2: COPY OF PETITION IN M.P.1504/2011 IN M.C2702010 A3: COPY OF OBJECTION IN M.P15042011 IN M.C2702010 A4: COPY OF

ORDER

DATED0311.2011 IN M.P15042011 IN M.C2702010 A5: COPY OF

ORDER

DATED3112.2011 IN M.C2702010 A6: COPY OF PETITION IN M.P282012 IN M.C2702010 FILED BY THE PETITIONER A7: COPY OF

ORDER

DATED2504.2012 IN M.P282012 IN M.C2702010 A8: COPY OF PETITION FILED BY THE PETITIONER IN M.P8392012 IN M.C2702010 A9: COPY OF M.P8402012 IN M.C2702010 A10: COPY OF THE

ORDER

DATED0910.2012 IN M.P8392012 IN M.C2702010 A11: COPY OF

ORDER

DATED0608.2012 IN M.P8402012 IN M.C2702010 RESPONDENT'S ANNEXURES: NIL /TRUE COPY/ PA TO JUDGE sab P.UBAID, J.

----- R.P.(F.C) No. 191 of 2014 -----

Dated this the 31st day of July, 2014.

ORDER

The revision petitioner herein is the respondent in M.C270of 2010 before the Family Court, Thrissur. The claimants for maintenance are his wife and two minor children. He entered appearance and filed objection. Later interim maintenance was also awarded by the trial court on application. But the revision petitioner failed to make payment, and subsequently remained ex parte in the proceedings. In

such a situation the trial court passed orders on 31.12.2011, directing the revision petitioner to pay maintenance to his wife at the rate of 1,500/- per month, and to the two children at the rate of 1,000/- each per month. The revision petitioner filed application in the trial court as M.P8392012 to set aside the ex parte maintenance order. Finding that the amount ordered is reasonable, the learned trial judge dismissed that application. The said order dated 9.10.2012 is under challenge in this revision. R.P. (F.C) No. 191 of 2014 2 2. On hearing both sides on admission, I find the absolute necessity of decision on merits in the main proceeding. Of course, the application to set aside the ex parte order was not properly dealt with or decided. When an ex parte order is sought to be set aside, what the trial court should look into is the reason stated for absence in court on the date of trial. Reasonableness or adequacy of amount of maintenance cannot be decided in the said proceeding. Instead of making a proper judicial order in the application to set aside the ex parte order the trial court passed orders, confirming the amount of maintenance already ordered, which must in fact be the function of the appellate or revisional court. I feel the necessity of decision on merits in the main proceeding, after hearing the revision petitioner also. However, as a condition for allowing this revision, and permitting to make contest in the main proceeding, he will have to pay interim maintenance to the respondents at a reasonable rate. I find that 1,000/- each per month to the three respondents herein will be the adequate amount as interim maintenance, till decision is taken in the main proceedings by the trial court. R.P. (F.C) No. 191 of 2014 3 In the result, this revision petition is allowed. The impugned order of the trial court, and also the ex parte order in M.C2702010 are hereby set aside. The trial court is directed to restore M.C270of 2010 to files, and dispose of the matter after recording evidence on both sides, and after hearing both sides. However as a condition for allowing the revision, the revision petitioner is hereby directed to pay interim maintenance to the respondents herein at the rate of 1,000/- each per moth till final decision is taken in the main proceeding by the trial court. The said amount shall be payable from the date on which application for interim maintenance was filed by the respondents in the trial court. The entire amount due as arrear till this date shall be deposited within one month, and the amount due in future shall be promptly paid till the main proceeding is disposed of. In case the revision petitioner failed to make deposit of

the arrear within one month as ordered by this court, this revision petition will stand dismissed, and consequently the order passed by the trial court in M.C2702010 can well be enforced. The interim maintenance order passed by this court in this proceeding R.P. (F.C) No. 191 of 2014 4 can be executed in the trial court by the respondents. P.UBAID, JUDGE sab

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