

Kesava Pillai Vs. Jayalekshmi

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Court : Kerala

Decided On : Aug-05-2014

Judge : Honourable Mr.Justice K.Surendra Mohan

Appellant : Kesava Pillai

Respondent : Jayalekshmi

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID TUESDAY, THE 5TH DAY OF AUGUST 2014 14TH SRAVANA, 1936 RPFC.No. 238 of 2014 () -----
(AGAINST THE

ORDER

IN CRL.M.P. NO.121/2013 IN C.M.P. NO.18/2013 IN M.C. NO.478/2000 OF THE FAMILY COURT, CHAVARA REVISION PETITIONER(S)/RESPONDENT:
----- KESAVA PILLAI S/O. SREENARAYANA PILLAI, KALLATHU VEEDU MUTHUKULAM THEKKUM MURI, MUTHUKULAM ALAPPUZHA DISTRICT. BY ADVS.SRI.M.V.THAMBAN SRI.R.REJI SMT.THARA THAMBAN SRI.B.BIPIN RESPONDENT(S)/PETITIONERS:
----- 1. JAYALEKSHMI D/O. RUGMINI AMMA, JAYALEKSHMI BHAVAN KULANGARA BHAGOM MURI, CHAVARA VILLAGE KOLLAM DISTRICT-691583.

2. DIVYA (MINOR), AGED 15 YEARS REPRESENTED BY MOTHER SMT. JAYALEKSHMI D/O. RUGMINI AMMA, JAYALEKSHMI BHAVAN KULANGARA BHAGOM MURI, CHAVARA VILLAGE KOLLAM DISTRICT-691583. R1-R2 BY ADV. SRI.RAVI KRISHNAN THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 0508-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: ma P.UBAID, J.

~~~~~ R.P (FC) No.238 of 2014 ~~~~~ Dated this the 5th August, 2014

## ORDER

The revision petitioner is aggrieved by the order of the Family Court, Chavara in C.M.P No.18 of 2013 dated 21.4.2014, enhancing the amount of maintenance due to his wife, from 500/- to 2000/- per month. It is an ex parte order. Maintenance was originally granted to the wife under Section 125 of Cr.P.C as per the order in M.C478 of 2000, dated 15.12.2001. After 13 years, the wife brought claim under Section 127 of Cr.P.C on the ground of material change of circumstances and increase in her needs and necessities. The husband received notice in the said proceeding, but remained absent. The trial court passed ex parte order under Section 127 of Cr.P.C in C.M.P. No.18 of 2013 enhancing the amount of maintenance to 2000/- per month to the wife. Later, the husband brought Crl.M.P. No.121 of 2013 to have the ex parte order under Section 127 of Cr.P.C set aside. His case is that due to some unavoidable circumstances, he could not make appearance R.P (FC) No.238 of 2014 2 in the proceeding in C.M.P. No.18 of 2013. The impugned order of the trial court shows that the revision petitioner brought the said application under Order 9, Rule 7 read with Section 151 of C.P.C. Anyway, the trial court heard both sides and found that the husband had no reason at all for his absence on the date on which the proceeding under Section 127 of Cr.P.C. came up for trial. On the said finding, the trial court dismissed Crl.M.P.121 of 2013 by order dated 21.4.2014. Aggrieved by the said order, the husband has come up in revision.

2. On hearing both sides on admission, I find that there is absolutely no reason or ground to admit the revision to files. The learned counsel for the respondents

submitted that 500/- per month granted in 2000 was enhanced to 2000/- per month after 13 years, and that the revision petitioner cannot in fact heard to complain of such enhancement in view of tremendous increase in needs and necessities, and also the indisputable change in circumstance of both the parties. Of course, that is not the consideration in this proceeding. The consideration now is R.P (FC) No.238 of 2014 3 whether the revision petitioner had any reason or justification for his absence in the trial court when the main proceeding under Section 127 of Cr.P.C came up for consideration. The trial court found that on the very same day, he had made appearance in some other proceedings. I find that the revision petitioner was well aware of the proceeding and that he had no justification at all for his absence on the date fixed for trial. He has no case that he was laid up, or that he was away from the station. I find that he was in fact very much available at the locality. He was aware of the posting date of C.M.P182013 and he had made appearance in some other proceedings on the very same day. Such a person does not deserve any consideration, and I find that his application was rightly disallowed by the trial court. In the result, this revision petition is dismissed in limine, without being admitted to files. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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