

Ragi T.P. vs Rajesh M.

Ragi T.P. vs Rajesh M.

SooperKanoon Citation : sooperkanoon.com/1355700

Court : Kerala

Decided On : Dec-19-2023

Judge : Honourable Mr. Justice Amit Rawal, Honourable Mrs. Justice C.S. Sudha

Appeal No. : OP (FC)/303/2021

Appellant : Ragi T.P.

Respondent : Rajesh M.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 19TH DAY OF DECEMBER 2023 / 28TH AGRAHAYANA, 1945 OP (FC) NO. 244 OF 2021 AGAINST THE ORDER IN IA. No.1470 of 2019 IN OP 204/2018 OF FAMILY COURT, OTTAPPALAM PETITIONER/RESPONDENT/PETITIONER: RAJESH M. AGED 36 YEARS S/O. MALAMPALLAYIL VEETIL RAMAN, RESIDING AT KARUVACHERY, NEAR KAIRALI CLUB, NEELESWARAM VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT-673572. BY ADVS. P.V.VINOD (BENGALAM) SMT.D.REETHA RESPONDENT/PETITIONER/1ST RESPONDENT: RAGI T.P AGED 26

YEARS D/O. THALAYANAPARAMBIL VEETIL RAMACHANDRAN, VANIAMKULAM AMSOM, KOTHAYOOR DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT, PIN-679522. BY ADV P.JAYARAM THIS OP (FAMILY COURT) HAVING COME UP FOR HEARING ON 19.12.2023, ALONG WITH OP (FC).303/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL & THE HONOURABLE MRS. JUSTICE C.S. SUDHA TUESDAY, THE 19TH DAY OF DECEMBER 2023 / 28TH AGRAHAYANA, OP (FC) NO. 303 OF 2021 AGAINST THE ORDER IN IA No.1470 OF 2019 IN OP 204/2018 OF FAMILY COURT, OTTAPPALAM

PETITIONER/PETITIONER/1ST RESPONDENT: RAGI T.P. AGED 26 YEARS, D/O RAMACHANDRAN, THALAYANAPARAMBIL VEETIL, VANIAMKULAM AMSOM, KOTHAYOOR DESAM, OTTAPALAM TALUK, PALAKKAD DISTRICT BY ADV P.JAYARAM RESPONDENT/RESPONDENT/PETITIONER: RAJESH M, AGED 36 YEARS S/O RAMAN MALAMPALLAYIL VEETIL, PO KARUVACHERY, NEAR KAIRALI CLUB, NEELESWARAM VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT, PINCODE 673572 BY ADV D.REETHA THIS OP (FAMILY COURT) HAVING COME UP FOR HEARING ON 19.12.2023, ALONG WITH OP (FC).244/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Amit Rawal, J.

Two OP (FC)s have been filed on behalf of the husband and wife against the common order dated 5.2.2021 passed in I.A No.1470 of 2019 in pending OP No.204 of 2018 whereby interim maintenance to the wife and child @ Rs.3,000/- and Rs.2,500/- respectively from the date of the application has been passed. The

contention of the counsel for the petitioner, husband is that the petitioner is working in a Bakery whereas the wife says that he has more property and no proof have been attached and therefore maintenance awarded is too paltry.

2. We have gone through the order and of the view that

the order has not taken into consideration the directions contained in the judgment of the Supreme Court in RAJNESH v. NEHA & ANR. [2020] 13 S.C.R. 1093 whereby for adjudication of the issue with regard to maintenance, both the parties are required to file an affidavit with regard to the status and financial position only thereafter, the application has to be decided. In this view of the matter, we set aside the order and remit the matter to the Family court to decide afresh the application submitted by the wife for maintenance to her as well as the children in accordance with law. Sd/- AMIT RAWAL JUDGE Sd/- sab C.S. SUDHA JUDGE APPENDIX OF OP (FC) 244/2021 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF THE O.P.NO.315/2016 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, KASARAGOD. EXHIBIT P2 A TRUE COPY OF THE I.A.NO.1470/2019 IN O.P.NO.204/2018 BEFORE THE FAMILY COURT, EXHIBIT P3 A TRUE COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONER IN I.A.NO.1470/2019 IN O.P.NO.204/2018 BEFORE THE FAMILY COURT, OTTAPALAM. EXHIBIT P4 A TRUE COPY OF THE ORDER DATED 3.1.2020 IN I.A.NO.1470/2019 IN O.P.NO.204/2018 PASSED BY THE HON'BLE FAMILY COURT, EXHIBIT P5 A TRUE COPY OF THE JUDGMENT DATED 7.1.2021 IN O.P.(F.C.)NO.91/2020 OF THIS HONOURABLE COURT. EXHIBIT P6 A TRUE COPY OF THE ORDER DATED 5.2.2021 IN I.A.NO.1470/2019 IN O.P.NO.204/2018 PASSED BY THE HON'BLE FAMILY COURT,

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com