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

Prasanth V vs Devika

Prasanth V vs Devika

SooperKanoon Citation : sooperkanoon.com/1493299

Court : Kerala Orders

Decided On : Jun-01-2022

Judge : Honourable Mr.Justice Basant Balaji

Appeal No. : RPFC/74/2017

Appellant : Prasanth V

Respondent : Devika

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE BASANT BALAJI WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944 MC 99/2015 OF FAMILY COURT, VADAKARA REVISION PETITIONER/S: PRASANTH V S/O. KELU, VADAKKANTHAVIDA HOUSE, PALLUR AMSOM DESOM,NALUTHARA P.O. BY ADVS. SRI.ABRAHAM P.GEORGE SRI.C.BHASKARAN SMT.M.D.BEENA SMT.M.SANTHY RESPONDENT/S:

1 DEVIKA,AGED 8 YEARS, (MINOR), D/O. JISHA, JYOTHIS,KAMALAVAYAL KUNI, KELTRON ROAD, NANDI, KADALOOR P.O,KOILANDY TALUK, REPRESENTED BY MOTHER

JISHA K., D/O. VELAYUDHAN, JYOTHIS,KAMALAVAYAL KUNI, KELTRON ROAD, NANDI, KADALOOR P.O,KOILANDY TALUK. 2 DEVANAND,AGED 8 YEARS (MINOR), D/O. JISHA, JYOTHIS,KAMALAVAYAL KUNI, KELTRON ROAD, NANDI,KADALOOR P.O,KOILANDY TALUK, REPRESENTED BY MOTHER JISHA K., D/O. VELAYUDHAN, JYOTHIS,KAMALAVAYAL KUNI, KELTRON ROAD, NANDI, KADALOOR P.O,KOILANDY TALUK. BY ADVS. SRI.K.N.ABHILASH SRI.SUNIL NAIR PALAKKAT THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR

ADMISSION ON 01.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

(Dated this the 1st day of June 2022) The petitioner herein is the respondent and the respondents herein are the petitioners in M C No.99 of 2015 on the files of the Family Court, Vatakara. (The parties are referred to in the order as they appeared in the proceedings before the court below).

2. M.C. No.99 of 2015 was filed by the petitioners claiming maintenance at the rate of Rs.15,000/- each from the respondent/father.

3. The case of the petitioners before the court below is as follows:-

The petitioners are the minor children of the respondent in the wedlock between the respondent and the mother of the petitioners, Jisha K. The children are in the custody of the mother and they were deserted and neglected by the respondent -3-

father. The children does not have any income to maintain themselves. They are academically bright and fares well in extra curricular activities also. The respondent/father is a software Engineering in Bangalore earning around Rs.1.5 lakhs per month. Thus, they claimed maintenance at the rate of Rs.15,000/- each per month.

4. The respondent filed objection contending that he

had denied the legal obligation to maintain the minor children. The mother of the children is having her own income sufficient to maintain the family and the expenses

of the children. He expressed his willingness to meetexpe

connection with the real expenses. The maintenance case was tried along with 3 other Original petitions. The Family on an appreciation of oral and documentary evidence, -4- allowed the M.C. and directed the respondent to pay Rs.10,000/- per month as maintenance to the petitioners. Aggrieved by the same this revision petition is filed.

5. Heard the learned counsel for the petitioner and for the respondents.

6. The counsel for the petitioner submitted that the

maintenance case is filed by the mother of children to wreck vengeance on him and to insult him. The same was filed as a counter blast to the petition filed for custody of the children. The amount claimed is exorbitant. The counsel further submitted that the court below went wrong in taking adverse inference again him for not producing the salary certificate or the income tax return to prove his correct income. Moreover, in the objection filed against -5- the maintenance case, he has categorically stated that he is ready and willing to take the children to Bangalore and meet their expenses, but it was the mother of the children who stood against it.

7. The counsel for the respondents, on the other hand,

submitted that the petitioner has income of more than 1.5 lakh and Rs.15,000/- per month from other sources. The Family court has granted maintenance only at the rate of Rs.10,000/- per month though the claim was for Rs.15,000/- per month. The court below has rightly taken an adverse inference against the petitioner/father for not producing the income tax return which has shown the correct income received by the petitioner as salary. There is no illegality or

impropriety in the order passed and hence,

-6- no interference is warranted.

8. The petitioner was examined a PW1 and Exts.A1 to

A4 series were marked and the respondent was examined as RW1 and Exts.B1 to B4 were marked. While examining the petitioner as PW1, she has categorically stated that the respondent has an income of Rs.1.5 lakh as he is a Software Engineer earning Rs.15,000/- as income from other sources. Though the respondent was examined as RW1 in his deposition, he has denied the fact that his income is Rs.1.5 lakh per month. When examined he has stated that he is an income tax assessee and there is no impediment in producing the salary certificate and tax return before the court. Though such a statement was made by the petitioner at the time of cross-examination, he purposefully did not

-7-

produce the same before the court below to substantiate his case that he is not earning an amount of Rs.1.5 lakh per month as salary. When a person admits before the court that he is ready to produce any document which would show his salary and if he fails to do so, the court was justified in taking an adverse inference against him and he has suppressed the crucial document which would

otherwise show the actual salary. In view of the said suppression, the court below was justified in taking the monthly income of the respondent as Rs.1.5 lakh. A person who is earning Rs.1.5 lakh per month is expected to maintain his children in a decent way. The children need education in a good school and other allied expenses for the education. The father is expected to maintain his children

-8-

who are living separately with the mother in the same way and standard as if they are living with him. The court below has already found that the petitioner is earning an income of Rs.1.5 lakh per month. In view of the matter, an amount of Rs.10,000/- per month awarded as maintenance to the minor children is not

exorbitant and it is in tune with the salary he obtains. The court below was justified in entering into a find that the monthly salary of the petitioner is Rs.1.5 lakh and awarding Rs.10,000/- per month each to the petitioners in tune with the monthly salary of Rs.1.5 lakh he receives. On going through the deposition of the petitioner as well as the respondents and the documents produced by both the parties, I am of the considered

opinion that there is no illegality or impropriety in the order

-9- passed by the Family Court. Hence, no interference is warranted. In the result, this R.P.(F.C.) is dismissed. sd BASANT BALAJI, JUDGE dl/

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