

Diji S. Kumar vs Reshma U

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Court : Kerala Orders

Decided On : Dec-23-2021

Judge : Honourable Mrs. Justice Mary Joseph

Appeal No. : RPFC/124/2021

Appellant : Diji S. Kumar

Respondent : Reshma U

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE MARY JOSEPH
THURSDAY, THE 23RD DAY OF DECEMBER 2021 / 2ND POUSHA,
1943 RPFC NO. 124 OF 2021 AGAINST THE ORDER DATED
31.12.2020 IN M.C.NO.222/2011 OF FAMILY COURT,
THIRUVANANTHAPURAM REVISION PETITIONER/RESPONDENT IN
MC: DIJI S. KUMAR, AGED 40 YEARS, S/O. LATE T.A.S.KUMAR,
PANKAJA SADANAM, PERUNGUZHI P.O., THIRUVANANTHAPURAM-
695 309 BY ADV DR.K.P.PRADEEP RESPONDENTS/PETITIONERS IN
MC: 1 RESHMA U AGED 34 YEARS D/O. USHA, SAMANUAYAM, TC
3/2735, PATTOM P.O., THIRUVANANTHAPURAM-695 004 2 DIYA
D.R., AGED 12 YEARS (MINOR) D/O. DIJI.S.KUMAR, REPRESENTED

BY HER MOTHER RESHMA.U., AGED 34 YEARS, D/O. USHA, SAMANUAYAM, TC 3/2735, PATTOM P.O., THIRUVANANTHAPURAM-695 004 BY ADVS. SRI.T.R.HARIKUMAR SMT.ADITHYA RAJEEV THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 09.12.2021, THE COURT ON 23.12.2021 DELIVERED THE FOLLOWING: -:2:-

MARY JOSEPH, J.

----- R.P.(FC) No. 124 of 2021 ----- Dated this the 23rd day of December, 2021

ORDER

This revision is filed challenging the order passed by Family Court, Thiruvananthapuram in M.C. No.222 of 2011 dated 31.12.2020. The revision petitioner is the respondent in the M.C. It is contended by Dr.K.P. Pradeep, the learned counsel for the revision petitioner that he is ready to pay monthly maintenance allowance at the rate of Rs.5,000/- stands ordered in favour of the child by the order assailed herein but not the monthly maintenance allowance stands ordered in favour of the wife. The reason for his declination to pay monthly maintenance allowance at the rate of Rs.5,000/- was that the petitioner is able to maintain herself since admittedly she is an Engineer by profession and is employed on daily wages of Rs.1,000/- per day. It was brought out by the respondent in evidence that the petitioner -:3:- was getting Rs.26,000/- monthly. Attention is drawn by the learned counsel on the evidence adduced by the parties that a building is owned jointly by the 1st petitioner with her mother and it is rented out. But the petitioner as PW1 had also given evidence to the effect that the rent from the building is received by her mother and not by herself.

2. The revision petitioner as respondent has filed a

counter statement in the M.C admitting his job abroad. It has also come out in evidence that for the last 10 years he was working abroad. The petitioner has pleaded in the M.C that the respondent was getting Rs. 40,000/- monthly from his job abroad. Whereas, the respondent did not state anything about his actual monthly income. A man working abroad for a long term would continue there only when the income

earned therefrom is sufficient and satisfactory. Therefore, there was nothing wrong in drawing an inference that he is having income sufficient to pay a reasonable sum as monthly maintenance. Admittedly the 1st petitioner is working on daily wages and even after expiry of the contract period, she is -:4:- permitted to continue in the same post. Therefore, the petitioner is having monthly income to the tune of Rs.26,000/-.

3. The 1st respondent is the wife of the revision

petitioner and admittedly she is working on contract basis. The respondent is affluent financially and therefore, the petitioner is entitled to get reasonable sum as monthly maintenance allowance. Rs.5,000/- is the sum stands awarded to the 1st respondent.

4. When viewed in the light of the evidence already on

record and discussed above, the Family Court cannot be found fault with for fixing the monthly maintenance allowance at the rate of Rs.5,000/- and directed the revision petitioner to pay it to the 1st respondent. The amount being a reasonable sum interference is uncalled for.

The Revision Petition fails and is dismissed. Sd/- MARY JOSEPH, JUDGE. ttb - :5:- APPENDIX OF RPFC 124/2021 PETITIONERS ANNEXURES: ANNEXURE A CERTIFIED COPY OF THE ORDER DATED 31.12.2020 IN MC NO.222 OF 2011 OF THE LEARNED FAMILY COURT, THIRUVANANTHAPURAM ANNEXURE B TRUE COPY OF THE ORDER DATED 3.12.2020 IN CRL.M.P.NO.2/2020 IN MC NO.222 OF 2011 OF THE LEARNED FAMILY COURT, THIRUVANANTHAPURAM RESPONDENTS ANNEXURES: NIL //TRUE COPY//

P S TO JUDGE

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