

Sivaprasad vs Jayasree

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Court : Kerala Orders

Decided On : Aug-31-2021

Judge : Honourable Mrs. Justice Mary Joseph

Appeal No. : RPFC/168/2021

Appellant : Sivaprasad

Respondent : Jayasree

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE MARY JOSEPH
TUESDAY, THE 31ST DAY OF AUGUST 2021 / 9TH BHADRA, 1943
AGAINST THE ORDER IN M.C.NO.298/2014 OF FAMILY COURT,
THRISSUR REVISION PETITIONER/RESPONDENT: SIVAPRASAD
P.B, AGED 42 YEARS S/O BHASKARAN, PAVITTHAKULANGARAYIL
HOUSE, AKATHIYUR.P.O, KUNNAMKULAM TALAPPILLY TALUK,
THRISSUR DISTRICT-680519. BY ADVS. SRI.AJMAL V. A.
SMT.FATHIMA V.A. RESPONDENTS/PETITIONERS:

1 JAYASREE, AGED 33 YEARS, D/O RAVEENDRAN,
MADATHIVALAPPIL HOUSE, KOLALAMP, EDAPPAL.P.O, PONNANI

TALUK, MALAPPURAM-679576. 2 SIVANANDANA (MINOR), AGED 13 YEARS DOB 15.12.2007, REPRESENTED BY GUARDIAN, MOTHER JAYASREE (1ST RESPONDENT), MADATHIVALAPPIL HOUSE, KOLALAMP, EDAPPAL.P.O, PONNANI TALUK, MALAPPURAM-679576. 3 SIVAVARNANA (MINOR), AGED 8 YEARS DOB 21.8.2013, REPRESENTED BY GUARDIAN, MOTHER JAYASREE (1ST RESPONDENT),

MADATHIVALAPPIL HOUSE, KOLALAMP, EDAPPAL.P.O, PONNANI TALUK, MALAPPURAM-679576. THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 31.08.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This revision is filed against an order passed by Family Court, Thrissur in M.C. No.298/2014 on 27.03.2021. The M.C. was filed by the first respondent seeking for monthly maintenance allowance for herself and also for respondents 2 and 3 who are children born to her in the wedlock with the respondent.

2. According to the petitioners in the M.C, the

respondent/husband has willfully neglected to maintain them from January 2013 and being unable to maintain themselves, that M.C was filed before the Family Court seeking monthly maintenance allowance at the rate of Rs.10,000/- to each of them.

3. The petitioners averred in the M.C that the respondent was working at the relevant time as a Supervisor at

Dubai and earning Rs.1,00,000/- monthly. Respondent has filed objection in the M.C that he is a goldsmith working from home and the income derived monthly is only Rs.10,000/-. According to him, with that income, his aged mother residing with him and suffering from various ailments is to be maintained. Contention was also raised that the first petitioner is residing separately without sufficient reasons and therefore, is not entitled to claim maintenance.

4. To establish the pleadings, evidence was adduced by both parties. Petitioner was examined as PW1 and the respondent as RW1. Exts.D1 to D4 were also marked on the

respondent's side. After appreciating the evidence, the Family Court had allowed the M.C and directed the respondent to pay monthly maintenance allowance at the rate of Rs.5,000/- to the first petitioner in the M.C. For the reason that Rs.2,000/- each

was paid by the revision petitioner in compliance of an order

issued earlier to respondents 2 and 3, the Family Court has not ordered any further sum as maintenance to them. The amount was ordered to be paid to the first petitioner from the date of the petition.

5. Aggrieved by the above order that the respondent

before the Family Court has approached this Court in revision. It is submitted by the learned counsel that due to the outbreak of Covid-19 pandemic, and the consequently declared lock down the revision petitioner started to work from home and gets only Rs.10,000/- per month as income. The learned counsel seeks for modification of the monthly maintenance allowance ordered to be paid to the first petitioner in the above circumstances.

6. The present proceedings is revision. This Court can act only upon the evidence already adduced before the Family

Court. It is pertinent to note that the revision petitioner has taken up the very same contention before the Family Court as he has taken now that he is working from home and is getting only Rs.10,000/- monthly. Before the Family Court, evidence was not adduced to establish that the first respondent is

employed and has income. No evidence was also adduced to establish that the first respondent has left the company of the revision petitioner without any justifiable reason. Therefore, on appreciating the evidence on record properly, the Family Court had arrived at a finding that the first respondent is entitled to get

monthly maintenance allowance from the revision petitioner and directed the latter to pay Rs.5,000/- per month, with effect

from the date of the petition. This Court finds no reason to interfere with the above order. If the revision petitioner has a genuine case that the outbreak of Covid-19 pandemic has resulted in a situation of unemployment for him, it being a change in circumstance, he could project that in an application under Section 127 Cr.P.C and get modification of the order. R.P.(FC) fails and is dismissed. Sd/- MARY JOSEPH JUDGE al/-

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