

Rajan Babu Vs. Shyamala

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Court : Kerala

Decided On : Nov-27-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Rajan Babu

Respondent : Shyamala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 27TH DAY OF NOVEMBER 2014 6TH AGRAHAYANA, 1936 RPFC.No. 395 of 2014 ()
----- AGAINST THE

ORDER

IN MC.NO.423/2013 of FAMILY COURT, NEDUMANGAD DATED 04-08-2014
REVISION PETITIONER(S)/RESPONDENT:

----- RAJAN BABU, AGED 39 YEARS S/O
SUKUMARAN, THOTTARIKATHU VEEDU, MYLAMOODU KALLIYODU,
PANAVOOR P.O, ANAND VILLAGE NEDUMANGAD, THIRUVANANTHAPURAM
DISTRICT BY ADVS.SRI.V.G.ARUN SRI.T.R.HARIKUMAR
RESPONDENT(S)/PETITIONER: -----

SHYAMALA,, AGED 57 YEARS D/O KAMALAMMA, THOTTARIKATHU VEEDU,
MYLAMOODU KALLIYODU, PANAVOOR P.O, ANAD VILLAGE NEDUMANGAD,
NOW RESIDING AT PRASSANNA VILASOM IRINJAYAM, THANNINOODU,

ANAD VILLAGE NEDUMANGAD TALUK, THIRUVANANTHAPURAM
DISTRICT 69556 BY ADV. SRI.R.BINDU (SASTHAMANGALAM) ADV.
SRI.R.JAYAKRISHNAN ADV. SRI.PRASANTH M.P THIS
REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 27/11-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
Bb K. Ramakrishnan, J.

===== R.P.(F.C.).No.395 of 2014
===== Dated this, the 27th day of November,
2014.

ORDER

Counter petitioner in M.C.No.423/13 on the file of the Family Court, Nedumangad is the revision petitioner herein.

2. Respondent herein who is the unfortunate mother of the revision petitioner who was driven to court by the son seeking maintenance under Section 125 of the Code of Criminal Procedure.

3. It is alleged in the petition that she was residing with her daughter from 2011 onwards and he was not paying any maintenance though he is getting a monthly income of Rs.40,000/- and she requires Rs.15,000/- for her maintenance. So, she filed the application for maintenance against her son.

4. The revision petitioner appeared and filed counter admitting that the petitioner is the mother of the revision petitioner and there was another case between them before Family Court as O.P.No.97/10 and that was settled and as per the settlement, the property was partitioned and 56 cents of land was given to her which she had sold and obtained R.P.(F.C.).No.395 of 2014 :

2. : Rs.45,00,000/- and deposited in bank and she is getting interest of Rs.40,000/- per month and her daughter is also having 55 cents of land. So, it cannot be said that she is incapable of maintaining herself and she is not entitled to get maintenance and he prayed for dismissal of the application.

5. Respondent was examined as PW1 and Exts.P1 to P11 were marked on her side. Revision petitioner was examined as CPW1. After considering the evidence, the Family Court found that the respondent herein is entitled to get maintenance and directed the revision petitioner to pay maintenance at the rate of Rs.2,000/- per month from 27.11.2013 onwards. This order is being challenged by the revision petitioner by filing the revision.

6. Since respondent had appeared on getting notice on admission, this court felt that the revision can be admitted and the same can be disposed of today itself after hearing both sides. So, the revision is admitted and heard and disposed of today itself.

7. The Counsel for the revision petitioner submitted that in the earlier proceedings, 56 cents of land was given to her as part of the settlement and she had sold the property R.P.(F.C.).No.395 of 2014 :

3. : and deposited the amount and getting regular monthly interest which is more than sufficient for her maintenance. Further, she is residing with her daughter who is capable of maintaining her and she is also having property. Only at the instigation of the daughter, she had filed the present petition against the revision petitioner to harass him.

8. Counsel for the respondent submitted that the documents produced by her will go show that she require huge amount for her treatment and she is unable to maintain herself and the amount awarded is in fact less.

9. It is an admitted fact that revision petitioner is the son of the unfortunate mother who filed this application seeking maintenance against her son. It is true that as per order in Ext.R2 in an earlier proceedings between the same parties, the matter was settled and the properties were partitioned and a portion of the property was given to her. But, that alone is not sufficient to come to the conclusion that she is not entitled to get maintenance. It is seen from the order of lower court that PW1 had admitted that she had sold the property which was obtained in the partition for an amount of Rs.7,35,000/- and it was also mentioned that in the R.P.(F.C.).No.395 of 2014 :

4. : property given to her daughter namely., 58 cents, right to take income was reserved in her favour. But, there is no much income from that property. She had also produced Ext.P1 to P11 which will go to show that she is a patient under continuous medication and treatment. So, whatever amount she gets by a way of interest will not be sufficient to meet her requirements including expenses for her treatment. The revision petitioner had no case that he is incapable of doing any work and getting income. He had also no case that he is unemployed and he is not getting any income as well. He did not mention as to what is his income or his capacity to pay maintenance etc in the counter also and no evidence has been adduced on that aspect. But, he had only adduced evidence to show that the mother has sold the property and she is getting interest, by depositing the sale proceeds in a bank and so, he is not liable to pay maintenance to the mother. It is quite unfortunate that children are nowadays taking a stand that there is no responsibility or there is no liability to maintain their parents forgetting the fact that they reached the stage on account of the sacrifice that has been made by their parents. So, under the circumstances, court below was perfectly R.P.(F.C.).No.395 of 2014 :

5. : justified in coming to the conclusion that the revision petitioner is liable to pay maintenance to the respondent and the amount of Rs.2,000/- fixed by the court below cannot be said to be excessive considering the nature of evidence adduced by PW1 regarding her requirements and the revision lacks bona fides and the same is liable to be dismissed. In the result, the revision is dismissed. Office is directed to communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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