

Mithran P. Vs. Panantevida Parvathi

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Court : Kerala

Decided On : Jun-26-2015

Judge : Honourable Mr.Justice K.Harilal

Appellant : Mithran P.

Respondent : Panantevida Parvathi

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.HARILAL FRIDAY, THE 26TH DAY OF JUNE 2015 5TH ASHADHA, 1937 201 RPFC.No. 290 of 2013 ----- AGAINST THE

JUDGMENT

IN MC152013 of FAMILY COURT, VADAKARA. REVISION PETITIONER(S)/RESPONDENTS: ----- 1. MITHRAN P., AGED 56 YEARS, S/O.BHASKARAN, PANANTEVIDA HOUSE, VATAKARA BEACH POST, VATAKARA AMSOM, DESOM, VATAKARA TALUK.

2. KUTTYKRISHNAN.P., AGED 50 YEARS, S/O.BHASKARAN, PANANTEVIDA HOUSE, VATAKARA BEACH POST, VATAKARA AMSOM, DESOM, VATAKARA TALUK.

3. MANOJ.P., AGED 43 YEARS, S/O.BHASKARAN, PANANTEVIDA HOUSE, VATAKARA BEACH POST, VATAKARA AMSOM, DESOM, VATAKARA TALUK.

4. BIJU MON.P., AGED37YEARS, S/O.BHASKARAN, PANANTEVIDA HOUSE, VATAKARA BEACH POST, VATAKARA AMSOM, DESOM, VATAKARA TALUK. BY ADV. SRI.DEVAPRASANTH.P.J.

RESPONDENT(S)/REVISION

RESPONDENT/PETITIONER:

----- PANANTEVIDA PARVATHI, AGED73YEARS, W/O.LATE BHASKARAN, VATAKARA BEACH POST, VATAKARA AMSOM, DESOM, VATAKARA TALUK, KOZHIKODE- PIN-673 101. R1 BY ADV. SRI.E.NARAYANAN BY ADV. SRI.VIJAYAN PALANGATTU PATHAYA PURAYIL THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON2606-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: K. HARILAL, J.

----- R.P. (FC) No.290 of 2013

----- Dated this the 26th day of June, 2015

ORDER

The revision petitioners are the respondents in M.C. No.15 of 2013 on the files of the Family Court, Vatakara, and the respondent herein is the petitioner therein. The respondent is the mother of the revision petitioners. The above M.C. was filed claiming maintenance allowance under Sec.125 of the Code of Criminal Procedure. According to the respondent, the revision petitioners are her children and now she is aged 73 years and suffering from various ailments. She has no job or any kind of sources of income. Her husband is no more. She is unable to maintain herself, as a considerable amount is required for her R.P. (FC) No.290 of 2013 -:

2. :- treatment, food etc. She claimed maintenance allowance at the rate of `3,000/- per month. But the revision petitioners are fishermen having their own income which would be not less than `20,000/- per month.

2. The revision petitioners admitted the maternity of the respondent; but they resisted the claim for maintenance allowance contending that they have been paying maintenance allowance to the respondent. It is also contended that this M.C. was filed at the instigation of their sister by name 'Geetha' against whom the

revision petitioners filed a suit for partition of properties belonging to the father of the revision petitioners and the said Geetha. Even though the suit was dismissed by the lower court and the appeal filed by the revision petitioners now stand allowed and thereby the suit stands decreed. Thus, the said Geetha was nurturing grudge against the revision petitioners and she unnecessarily, with mala fide intention, instigated her mother to sue for R.P. (FC) No.290 of 2013 -:

3. :- maintenance.

3. After considering the rival pleas and evidence let in by both parties, as P.W.1 and R.W.1, the court below directed the revision petitioners to pay maintenance allowance at the rate of `750/- each per month to the respondent. This order is under challenge in this revision petition.

4. The learned counsel for the revision petitioners advanced arguments assailing the findings whereby the court below directed the revision petitioners to pay maintenance allowance.

5. Per contra, the learned counsel for the respondent advanced arguments to justify the impugned order.

6. The short question that arises for consideration in this revision petition is, whether there is any illegality or impropriety in the findings whereby the court below directed the revision petitioners to pay `750/- each per month to the respondent. The relationship between the revision petitioners and the R.P. (FC) No.290 of 2013 -:

4. :- respondent is not disputed. The respondent is aged 73 years at the time of filing the M.C. According to her, she is suffering from various old age ailments and a considerable amount is required for her treatment. Her husband is no more. She has no source of income and she has to solely depend upon her children alone. No evidence was forthcoming to show that she has any other source of income. The revision petitioners contended that the M.C. was initiated at the instance of their sister Geetha. When the respondent was examined as P.W.1, she herself deposed as regards her needs and the required amount for her own maintenance.

After considering the deposition of P.W.1, the court below observed that she is in need of maintenance allowance, as claimed by her, and it cannot be held that the M.C. was filed at the instance of the revision petitioners' sister Geetha. I do not find any reason to interfere with the findings whereby the court below directed to revision petitioners to pay maintenance allowance. R.P. (FC) No.290 of 2013 -:

5. :- 7. Coming to the quantum of maintenance allowance. Indisputably, the revision petitioners are fishermen having sufficient earning capacity. They do not have a case that they are physically disabled or incapable to do work. Though they contended that the respondent is getting pension from Government, no document has been produced to substantiate the said contention. Having regard to the fact that the respondent is their aged mother suffering from old age diseases, it can be reasonably presumed that she requires a substantial amount to meet her daily requirements. In that view of the matter, the court below is justified in providing maintenance allowance at the rate of `750/- each per month.

8. The learned counsel for the revision petitioners drew my attention to the operative portion of the impugned order and submits that in the operative portion the court below directed the revision petitioners to pay maintenance allowance at the rate of `3,000/- to the respondent is not in consonance R.P. (FC) No.290 of 2013 -:

6. :- with the earlier portion of the impugned order where the court found that each petitioner is liable to pay maintenance allowance at the rate of `750/- per month for maintaining their mother.

9. As rightly submitted by the learned counsel for the revision petitioners, I find that the operative portion is not in conformity with the findings. So, it is clarified that what is intended by the court below is to pay maintenance allowance at the rate of `750/- each to the respondent and the liability of each petitioner is independent and not collective. Each petitioner is liable to pay his share of `750/- per month only to the mother. This RP(FC) is disposed of accordingly. Sd/- (K. HARILAL, JUDGE) Nan/ //true copy// P.S. to Judge