

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MAY 2008 / 9TH JYAISHTA 1930

RPFC.No. 149 of 2008()

MC.382/2005 of FAMILY COURT, KANNUR
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PETITIONER/PETITIONER

KAVALAN SASI, S/O.KOZHUKUNNAN KRISHNAN,
AGED 39 YEARS, ODAKKOTH HOUSE, IRATTAKULANGARA
P.O., CHITTARIPARAMBA, KANNUR DISTRICT.

BY ADV. SRI.B.PREMNATH (E)

RESPONDENTS: COUNTER PETITIONERS

1. MAVILA SRUTHI, D/O.SASI,
AGED 13 YEARS, STUDENT (MINOR),
VELLAKKUNDU PARAMBA, MANNANTHARA,
P.O.MANANTHERI, KANNUR DISTRICT.
2. MAVILA SWATHI, D/O.SASI,
AGED 10 YEARS, (MINOR),
VELLAKKUNDU PARAMBA, MANNANTHARA,
P.O.MANANTHERI, KANNUR DISTRICT. (THROUGH THEIR
GUARDIAN AND GRAND MOTHER MAVILA MATHUAMMA, W/O.
P.V.KUNHANANDA KURUP, AGED 54, R/AT SAME ADDRESS).

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 30/05/2008, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

R.P.F.C.No. 149 of 2008

Dated this the 30th day of May, 2008

ORDER

This revision petition is directed against an order passed by the Family Court under Section 125 Cr.P.C. obliging the petitioner to pay maintenance at the rate of Rs.700/- p.m. to the claimants, who are his minor children aged 13 years and 10 years respectively. The children are now in the custody of their grand mother. The mother of the children is no more. The petitioner has married again and is residing with his second wife.

2. The claimants contended that they are unable to maintain themselves and that the petitioner, who has sufficient means, is refusing and neglecting to pay maintenance to them.

3. The petitioner entered appearance and resisted the claim. Paternity is admitted. It is contended that the children are not unable to maintain themselves in as much as his mother has settled a property measuring about 36 ½ cents in their name. It

was further contended that the petitioner is sick and infirm and does not have sufficient means.

4. The guardian of the children examined herself as PW1 and the petitioner examined himself as CPW1. The court below, on an anxious consideration of all the relevant inputs, came to the conclusion that the claimants are unable to maintain themselves, that the petitioner having sufficient means is refusing and neglecting to pay maintenance to them and that consequently the petitioner is liable to pay maintenance at the rate of Rs.700/- p.m. each to the two children.

5. The petitioner claims to be aggrieved by the impugned order. What is the grievance? The learned counsel for the petitioner first of all contends that the children are not unable to maintain themselves. This contention has no legs to stand on. The only argument is that the children have 36 ½ cents of land settled in their favour by the mother of the petitioner. But it is admitted candidly that the petitioner is taking income from such property. Therefore the children have nothing to fall back on. There is a contention that a deposit has been made in the name of the children. There is nothing to show that the

children are getting any income from that deposit. In these circumstances the finding that the children are unable to maintain themselves is found to be absolutely correct and justified.

6. The petitioner is an able bodied person and there is nothing to show that he is suffering from any ailment. The amount awarded is only Rs.700/- p.m. Each for his 2 children and I am not persuaded to agree that there is any vice in the order directing payment of such quantum, which can justify or warrant the invocation of the revisional jurisdiction of superintendence and correction.

7. This revision petition is in these circumstances dismissed.

(R. BASANT)
Judge

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