

RPFC No. 29 of 2024



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 28TH DAY OF JANUARY 2025 / 8TH MAGHA, 1946

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AGAINST THE ORDER DATED 27.09.2023 IN MC NO.406 OF 2018 OF
FAMILY COURT, TIRUR

REVISION PETITIONER/PETITIONER:

UNNEEN
AGED 73 YEARS, S/O. KUNHEETHU,
MODIKKAL HOUSE, MANNATHPARAMBU,
EDAYOOR P.O., VALANCHERRY, TIRUR TALUK,
MALAPPURAM DISTRICT, PIN - 676552

BY ADVS.
C.M.MOHAMMED IQUBAL
RAIHANATH T.H.
P.ABDUL NISHAD
ISTINAF ABDULLAH
MUHAMMED AMEEN

RESPONDENTS/RESPONDENTS:

- 1 SHOUKATHALI
 AGED 45 YEARS, S/O. MODIKKAL UNNEEN,
 MODIKKAL HOUSE, MANNATHPARAMBU,
 EDAYOOR P.O., VALANCHERRY, TIRUR TALUK,
 MALAPPURAM DISTRICT, PIN - 676552
- 2 SALEEM
 AGED 39 YEARS, S/O. MODIKKAL UNNEEN,
 MODIKKAL HOUSE, MANNATHPARAMBU,
 EDAYOOR P.O., VALANCHERRY, TIRUR TALUK,
 MALAPPURAM DISTRICT, PIN - 676552
- 3 MUHAMMED KABEER
 AGED 36 YEARS, S/O. MODIKKAL UNNEEN,

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MODIKKAL HOUSE, MANNATHPARAMBU,
EDAYOOR P.O., VALANCHERRY, TIRUR TALUK,
MALAPPURAM DISTRICT, PIN - 676552

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 28.01.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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"C.R."**ORDER**

This is an unfortunate case where a hapless septuagenarian who was neglected and ignored by his well-off male children was constrained to knock on the door of the Court seeking maintenance for his sustenance. The children resisted the claim, mainly contending that the father was able to maintain himself. The Family Court, on a wrong understanding of the law and misappreciation of facts, rejected the claim, only to drag the poor father to this Court in the evening of his life.

2. The petitioner, now aged 74 years, is the father of the respondents who were born to his first wife. The petitioner divorced his first wife in the year 2013 by pronouncing *talaq* alleging illicit relationship with his brother. He married his second wife in 2014 and now resides with her. The respondents are well-employed in Kuwait. They are admittedly not on good terms with the petitioner. The

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petitioner filed M.C.No. 406 of 2018 before the Family Court, Tirur, under Section 125 of Cr.P.C., against the respondents, claiming maintenance on the ground that he is unable to maintain himself. The Family Court dismissed the maintenance case as per the order dated 27.09.2023, holding that the petitioner has his own income to maintain himself. This revision petition has been filed challenging the said order.

3. I have heard the learned counsel for the petitioner. Even though notice has been served on the respondents, there is no appearance.

4. It is not disputed; rather, it has come out in evidence that the respondents are well-employed in Kuwait and have sufficient means to maintain the petitioner. Respondent Nos. 1 and 3 are working as managers in a Supermarket in Kuwait run by them along with the petitioner's brother and respondent No.2 is an employee in an Oil Company in Kuwait. The definite case of the petitioner

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is that respondent Nos. 1 and 3 are getting more than Rs.1,00,000/- and respondent No.2 is getting more than Rs.1,50,000/- per month. The said specific averment has not been denied in the counter statement.

5. In the petition for maintenance, the petitioner has clearly averred that he has no employment or means to support himself. The respondents denied the same and contended that the petitioner is running a business along with his brother in the Gulf, and he is getting more than Rs.50,000/- as income from the said business. It is further contended that the first wife of the petitioner filed M.C.No.62 of 2018 against him for maintenance and in that proceedings, interim maintenance was ordered. The Family Court, after evaluation of the evidence found that the contention of the respondents that the petitioner is having his own income so as to maintain himself is more acceptable and accordingly rejected the claim of the petitioner for maintenance.

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6. The relationship between a father and son is one of the most profound bonds in human life. Caring for one's father is an inherent moral duty that stems from love, gratitude, and respect. Throughout his life, a father provides for his children, sacrificing his comforts and dreams to ensure their well-being. When he becomes old and dependent, it is only fair and just that the son reciprocates this care. However, as time passes and the father ages, the roles reverse, and it becomes the son's duty to care for and support his father in his later years. Just as a father once cared for his son, it is only fair that the son reciprocates when his father is old and in need. This responsibility is not only a moral and ethical obligation but also a legal duty. Society thrives when its elderly are treated with dignity and care. Neglecting an aged father not only leads to emotional distress but also weakens the very fabric of society.

7. Filial duty is a fundamental obligation rooted in morality, religion, and law. Various religious texts, cultural

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traditions, and legal frameworks emphasize that children, especially sons, must look after and take care of their aged parents. In Hindu Dharma, the duty of a son toward his father is ingrained in scriptures like the Vedas, Upanishads, Smritis, and Epics. The concept of *Pitru Devo Bhava* (Father is equivalent to God) is deeply rooted in Hindu culture. The *Manusmriti* states that a son who does not care for his parents is failing in his Dharma (duty). In the *Mahabharata*, Yudhishtira was taught that failing to care for one's parents is one of the greatest sins. *Taittiriya Upanishad* (1.11.2) says – "*Matru Devo Bhava, Pitru Devo Bhava*" - meaning "Let your mother be your God, let your father be your God," emphasizing the sacred duty of respecting and caring for one's parents. Islam strongly emphasizes the duty of children toward their parents, particularly their fathers and mothers. The *Qur'an* (17:23-24) states: "*Show kindness to your parents. If one or both of them reach old age with you, do not say to them 'uff' (a word of contempt), nor repel them,*

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but address them with respectful words. This highlights the importance of treating parents with kindness, patience, and care. Prophet Muhammad emphasized that serving one's parents is second only to worshipping God. *Hadith* (Sahih al-Bukhari 5971) notes that the Prophet Muhammad *said*: "*The father is the middle gate of Paradise. So, keep this gate or lose it.*" This implies that caring for one's father is a direct means to attaining Paradise. The Christian teachings also emphasize respect and care for parents as part of a righteous life. The *Bible* (Exodus 20:12) commands: "*Honor your father and your mother, that your days may be long in the land the Lord your God is giving you.*" This is one of the Ten Commandments, showing that honouring and caring for parents is a divine duty. *Proverbs* (23:22) says – "*Listen to your father who gave you life, and do not despise your mother when she is old.*" This verse encourages children to respect and care for their ageing parents. In Buddhist teachings, respecting and supporting one's parents is an

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essential virtue. The Buddha taught that caring for parents is a primary duty of a good person. The *Sigalovada Sutta* (Digha Nikaya 31) describes parents as "worthy of honour", and children are advised to support and care for them in their old age.

8. The obligation of a son to maintain his father is codified in several laws. Under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a father (or mother) who is unable to maintain himself can claim maintenance from his son. If a son neglects his father, he can be legally compelled to provide financial support. As per Section 20 of the Hindu Adoptions and Maintenance Act, 1956, a son has a duty to maintain his aged and dependent parents. Section 125(1)(d) Cr.P.C/144(1)(d) of BNSS provides for maintenance to parents who are unable to support themselves. Article 51A of the Indian Constitution places a fundamental duty upon every citizen to respect and take care of their parents. Neglecting aged parents is not just illegal

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but also against moral and social values.

9. Coming to the merits of the case, the Family Court mainly relied on Ext R1 and X1 documents to infer that the petitioner is getting substantial income from abroad from his business. The said finding of the Family Court, appears to be without any basis. Ext. X1 is the bank statement of the petitioner and Ext. R1 is the bank statement of his brother. Exts. R1 and X1 would only show that the brother of the petitioner had transferred money to the account of the petitioner till 2018. The petitioner had given a valid explanation for the same. He has clearly explained that the amount credited by his brother to his account was to provide financial assistance to him to meet his day-to-day expenses and not as a share of the profit of any business. If an age-old father or mother somehow manages to maintain themselves with the financial support of relatives or friends, that will not absolve the liability of the children to provide maintenance to them. It is both a moral duty and legal obligation of the son

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to provide sustenance to their parents in their old age. There is nothing on record to show that the petitioner is having any business along with his brother abroad and he is getting income from the said business, apart from the mere allegations in the counter statement filed by the respondents. It is pertinent to note that respondent Nos. 1 to 3 did not even enter into the box. On the other hand, their power of attorney was examined as RW1. Yet another reason shown by the Family Court to disallow the claim of maintenance of the petitioner is that he has contracted his second marriage, and without any income, he cannot maintain the second wife. The fact that the petitioner gets some income from others to support himself and the second wife cannot be reckoned as a ground to deny the maintenance to him. The respondents who are well employed at Gulf and earning substantial income are legally and morally bound to maintain their own father, who is now aged 74 years. Hence, the impugned order declining maintenance to the petitioner is not sustainable,

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and accordingly, it is set aside. Ext. P3 series, coupled with the evidence of the petitioner, would prove that he is suffering from so many ailments.

Considering the requirement of the petitioner and the means of the respondents, the respondents are directed to pay monthly maintenance of Rs.20,000/- (Rupees Twenty thousand only) to the petitioner from the date of the petition. MC, as well as RPFC, stand allowed accordingly.

Sd/-
DR. KAUSER EDAPPAGATH
JUDGE

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