

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 5968 of 2015 (U)

PETITIONER(S):

**K. KANTHIMATHI RAVEENDRAN,
E.S.K.III, KAMAKYA COMPLEX, 43/2,
100 FEET ROAD, BANASANKARY, III STAGE,
BANGALORE-560 070.**

**BY ADVS.SRI.V.G.ARUN,
SRI.T.R.HARIKUMAR.**

RESPONDENT(S):

- 1. P. NARAYANAN NAIR,
SREE HARI, PUTHIYARA P.O., KOZHIKODE-671 001.**
- 2. DR.LOKESAN NAIR,
SAI KRIPA, VELLIKKOTTU, AJANOR P.O.,
KANHANGAD, KASARAGOD-671 531.**
- 3. THE MAINTENANCE TRIBUNAL,
KOZHIKODE-673 001.**

**R1 BY ADV. SRI.K.PRAVEEN KUMAR.
R3 BY GOVT. PLEADER SRI.BIJU MEENATTOOR.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : A TRUE COPY OF THE OBJECTION FILED IN J-7879/2012 DATED 25-10-2014 BY THE PETITIONER BEFORE THE MAINTENANCE TRIBUNAL, KOZHIKODE.
- EXT P2 : A TRUE COPY OF THE ADDITIONAL STATEMENT FILED IN J-7879/2012 DATED 03-11-2014 BY THE PETITIONER BEFORE THE MAINTENANCE TRIBUNAL, KOZHIKODE.
- EXT P3 : A TRUE COPY OF THE PLAINT IN OS.NO.95/2006, FILED BY THE 1ST RESPONDENT BEFORE THE SUBORDINATE JUDGE'S COURT, KOZHIKODE.
- EXT P4 : A TRUE COPY OF THE ORDER DATED 03-06-2008 IN M.C.185/2007 OF THE FAMILY COURT, KOZHIKODE.
- EXT P5 : A TRUE COPY OF THE ORDER NO.J-7879/12 DATED 12-12-2012 OF THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R1A COPY OF THE APPLICATION FILED UNDER THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P(C). No.5968 of 2015

Dated this the 21st day of July, 2015.

JUDGMENT

The petitioner is aggrieved by the order passed at Ext.P5. The first respondent is the father of the petitioner. Admittedly, the father is residing in a property, which belonged to the mother of the petitioner. Proceedings are pending before the Jurisdictional Civil Court with respect to the title of the property. In any event, the first respondent, who is 86 year old, sought for maintenance from the petitioner and the 2nd respondent, who are his children in the first marriage.

2. The petitioner's contentions are two-fold; one the first respondent had initiated proceedings against her and her brother with respect to the property of their mother and the first respondent has also entered into a second marriage with another. The learned counsel for the petitioner also relies on Ext.P4 to

indicate that earlier an application for maintenance filed before the Magistrate's Court, under Section 125 of the Cr.P.C., was rejected and there could be no revival of such claim.

3. On the admitted fact that the first respondent is the father of the petitioner, no challenge could be made to the impugned order, either on the ground that he has married again or on the ground that there are civil proceedings pending between the petitioner and the first respondent. As to the claim based on Ext.P4, it is to be noticed that the Magistrate's Court has dismissed the claim for maintenance by Ext.P4 in the year 2008 and that too for reason of suppression of facts. A reading of Ext.P4 would indicate that, the learned Magistrate had at that point of time, found that the petitioner had been getting rent from a building. Seven years hence, the first respondent's claim is that the building, which was rented out, is demolished and the petitioner does not get any income from the said building.

4. Maintenance and Welfare of Parents and Senior Citizen's Act, 2007 (for brevity, the Act of 2007) confers the Tribunal with the power to grant maintenance to senior citizens from the

'relatives' as defined in the said Act. Admittedly, the first respondent is the father of the petitioner and the petitioner is also employed in a Nationalised Bank. In such circumstances, this Court does not find any infirmity in the order passed at Ext.P10.

The writ petition would stand dismissed. No costs.

**K. VINOD CHANDRAN,
JUDGE**

sp