

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 8475 of 2015 (G)

PETITIONER(S):

**MS. LISSY, 4B, ARIHANT VEDANT,
42 MELONY ROAD, T. NAGAR,
OPP. HINDI PRACHARASABHA, CHENNAI - 600 017.**

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENT(S):

- 1. MAINTENANCE TRIBUNAL AND SUB DIVISIONAL MAGISTRATE,
MUVATTUPUZHA, ERNAKULAM - 686 661.**
- 2. N.D.VARKEY, NELLIKATTIL HOUSE, PAZHANGARA,
PINDIMANA VILLAGE,
KOTHAMANGALAM TALUK - 686 691.**

**R1 BY SEPCIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL
R2 BY ADV. SRI.P.M.MOHAMMED SHIRAZ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 8475 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF 1ST RESPONDENT'S ORDER DATED 25/01/2011.

EXHIBIT P2: TRUE COPY OF APPELLATE TRIBUNAL VIDE ORDER NO.SW3/3514/2011.

**EXHIBIT P3: TRUE COPY OF THE PETITION DATED 19/12/2014 FILED BEFORE THE
1ST RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE PETITION DATED 03/02/2015 FILED BEFORE THE
1ST RESPONDENT.**

**EXHIBIT P5: TRUE COPY OF OBJECTION DATED 30/01/2013 FILED BY THE
PETITIONER.**

**EXHIBIT P6: TRUE COPY OF THE ADDITIONAL OBJECTION DATED 10/03/2015 FILED
BY THE PETITIONER.**

EXHIBIT P7: TRUE COPY OF 1ST RESPONDENT'S ORDER DATED 03/03/2015.

RESPONDENT(S)' EXHIBITS:

EXT.R2(a): TRUE PHOTOCOPY OF JUDGMENT DTD.3.8.2011 IN OP(CRL) NO 2516/2011.

**EXT.R2(b): TRUE PHOTOCOPY OF ORDER NO.SW3-1215/2011/SWD DTD.3.11.2012 OF
APPELLATE MAINTENANCE TRIBUNAL.**

**EXT.R2(c): TRUE PHOTOCOPY OF ORDER DTD.14.11.2012 IN
CONT. CASE (C) NO.1534 OF 2012.**

EXT.R2(d): TRUE PHOTOCOPY OF ORDER DTD.6.2.2013 OF THE 1ST RESPONDENT.

//TRUE COPY//

P.S.TO JUDGE.

Msv/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 8475 of 2015

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Dated this, the 7th day of September, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court challenging Ext.P7 order dated 03/3/2015 passed by the Revenue Divisional Officer in exercise of powers under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It is *inter alia* contended that though the petitioner, who is the respondent in the application filed by the 2nd respondent herein, has appeared, in the absence of receiving further notice of the date of hearing, the petitioner could not appear and contest the matter. As a result, *ex parte* direction had been issued directing the petitioner to pay an amount of ₹5,500/- per month to the 2nd respondent from 25/11/2011.

2. It is contended by the petitioner that she has no obligation to pay any amount to the 2nd respondent as the petitioner has even disputed the paternity of the 2nd respondent.

This aspect of the matter ought to have been considered by the Revenue Divisional Officer and the petitioner did not get an opportunity to ventilate the said contention.

3. Heard the learned counsel appearing for the 2nd respondent who contends that earlier also, this issue had received the attention of this Court in WP(C) No.7300/2013 wherein, this Court had, while referring the issue to the Division Bench, directed the Revenue Divisional Officer to reconsider the entire matter. The petitioner being fully aware of the issues between the parties did not attempt to participate in the enquiry though several postings had been granted by the Revenue Divisional Officer.

4. Learned counsel for the petitioner however would submit that since the issue relating to paternity of the 2nd respondent was not considered by the Revenue Divisional Officer, the petitioner should be given an opportunity to take up the said issue and in the absence of any such finding, it shall substantially prejudice the petitioner.

5. Having regard to the contentions urged on behalf of either parties, we are of the view that this writ petition can be

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disposed of by rendering justice to both the parties in the following manner:-

(1) That the petitioner shall pay to the 2nd respondent the amount from the date of Ext.P7 order, i.e., from 3/3/2015 till date, within a period of fifteen days.

(2) On payment of the said amount, Ext.P7 order shall be set aside and on production of receipt showing payment to that effect, the 1st respondent shall reconsider the complaint of the 2nd respondent in accordance with law and complete the procedure within a further period of two months from the date of such payment.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge