

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(Crl.).No.130 of 2015 (B)

PETITIONERS/PETITIONERS:

1. K.V.PAILY, AGED 64 YEARS,
S/O VARGHESE, KADAYAPARAMBU BOAT JETTY ROAD
CHANDY ROAD(NEAR), HOUSE NO.96, VADUTHALA
KOCHI.
2. ELIZABETH SEBASTIAN, AGED 67 YEARS
W/O.SEBASTIAN, 76, BALASUBRAMANIAN ROAD, K.K.PUDUR
COIMBATORE-641038.

BY ADVS. SRI.T.V.GEORGE
SRI.JIMMY GEORGE (THADATHIL)

RESPONDENTS/RESPONDENTS:

1. COMMISSIONER OF POLICE,
COCHIN CITY-682031.
2. JESSY VINCENT,
KADYAPARAMBIL HOUSE, 5TH LANE
KALOOR-KADAVANTHARA ROAD, NEAR KALOOR BUS STAND
KOCHI-682017.

R2 BY ADV. SRI.G.SREEKUMAR (CHELUR)
SMT.KOCHUMOL KODUVATH, PUBLIC PROSECUTOR
SMT.I.SHEELA DEVI, ADV. COMMISSIONER

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K. T. SANKARAN
&
BABU MATHEW P. JOSEPH, JJ.**

W. P. (Crl.) No.130 of 2015

Dated this the 7th day of April, 2015

JUDGMENT

Babu Mathew P. Joseph, J.

This Writ Petition is filed for issuing a writ of habeas corpus for producing the body of Zara Paappu who is residing along with the second respondent.

2. Heard the learned counsel appearing for the petitioners, learned Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

3. The petitioners and the second respondent are present. The alleged detainee is also present. We have interacted with all of them. The Advocate Commissioner appointed by this Court has filed a report in which it is stated that the alleged detainee has been residing in the house in which now she is residing for the last 68 years. She went

there at the age of eight years. Now she wants to shift her residence from there. The report does not say that the alleged detainee is under the illegal custody of the second respondent. The Commissioner's Report shows that the mother-in-law of the second respondent died last year and the alleged detainee wanted to continue to reside there till her first death anniversary. Now she wants to go along with the second petitioner.

4. The first petitioner is the half brother and the second petitioner is a close relative of the alleged detainee. The second petitioner submits that she is residing permanently at Coimbatore along with her husband who is a retired bank officer. Both of them are very much interested in the welfare of the alleged detainee. They are willing to take the alleged detainee to their house at Coimbatore.

5. The alleged detainee informed us that she wants to go along with the second petitioner and to live with her at Coimbatore. The second respondent stated that she has no objection in taking the alleged detainee to Coimbatore by

the second petitioner. But, she expressed her concern about the alleged detainee as she was living along with her family for the last 68 years at their residence.

6. The second respondent also informed us that her mother-in-law who only brought the alleged detainee to their house 68 years back had left a will in which two cents of property that situates at Kaloor is set apart for the alleged detainee. She is not interested in that property. The petitioners also expressed their view that they are also not interested in that property.

7. After interacting with the parties, we are of the considered view that the alleged detainee can be permitted to go with the second petitioner for living along with her and her family at Coimbatore. We make it clear that the petitioners or the second respondent shall not take any steps for transferring the property of the alleged detainee situates at Kaloor. The alleged detainee, in fact, informed us that she does not know whether she owns that property. She further informed us that even if she owns any property, she

does not want to transfer that property during her life time.
Be that as it may.

In the result, this Writ Petition is disposed of permitting the alleged detinue to go with the second petitioner to Coimbatore. We record the undertaking made by the second petitioner and her husband before us that they would look after the alleged detinue with love and care. We also record the fact that the alleged detinue and the second respondent shook their hands showing their love for each other.

No further orders are required in this Writ Petition. Therefore, it is disposed of as above.

Sd/-
K. T. SANKARAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

