IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 13TH DAY OF DECEMBER 2023 / 22ND AGRAHAYANA, 1945

WP(C) NO. 32239 OF 2022

PETITIONER:

LEELAMMA JOSEPH, AGED 76, W/O LATE K.V. JOSEPH,
VETTIKKATTU KIZHAKKEKKUTTU, PAIPPADU VILLAGE,
NALUKODY P.O., CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT, PIN-686548.

BY ADVS.
P.HARIDAS
BIJU HARIHARAN
SHIJIMOL M.MATHEW
P.C.SHIJIN
RISHIKESH HARIDAS
GREESHMA T.G.

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.

2 REVENUE DIVISIONAL OFFICER / SUB COLLECTOR,
KOTTAYAM & MAINTENANCE TRIBUNAL, KOTTAYAM,
OFFICE OF THE SUB COLLECTOR, KOTTAYAM-686001.

3 BIJI BIJU, AGED 49, W/O LATE BIJU JOSEPH,
VETTIKKATTU KIZHAKKEKKUTTU, PAIPPADU VILLAGE,
NALUKODY P.O., CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT, PIN-686548.

4 JOSEPH SANJIN BIJU, AGED 25,
S/O LATE BIJU JOSEPH, VETTIKKATTU KIZHAKKEKKUTTU,
PAIPPADU VILLAGE, NALUKODY P.O.,
CHANGANACHERRY TALUK, KOTTAYAM DISTRICT, PIN-686548.

5 JOB SAN BIJU, AGED 19, S/O LATE BIJU JOSEPH,
VETTIKKATTU KIZHAKKEKKUTTU, PAIPPADU VILLAGE,
NALUKODY P.O., CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT, PIN-686548.

6 VINU JOSEPH @ BINU JOSEPH,
AGED 45, VETTIKKATTU KIZHAKKEKKUTTU,
PAIPPADU VILLAGE, NALUKODY P.O.,
CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT, PIN-686548.

BY ADV K.SHAJ
SRI.P.S.APPU, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, who is a senior citizen within the ambit of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ('Act', for short), impugns Ext.P5 order of the Statutory Maintenance Tribunal, constituted under it.

2. Sri.P.Haridas – learned counsel for the petitioner, submitted that, as is evident from Ext.P5, even though his client requested the Maintenance Tribunal to implement Ext.P4 settlement between the parties, steps for it were declined, merely saying that the parties must abide by the same. He argued that this was not the manner in which the Maintenance Tribunal ought to have acted; and that it should have ensured that respondents 3, 4 and 5 herein - who were respondents 1, 2 and 3 therein - acted as per Ext.P4 and transferred the property in

question into his client's name. He thus prayed that Ext.P5 be set aside and the Maintenance Tribunal be directed to implement Ext.P4 in its letter and spirit.

3. Sri.K.Shaj – learned counsel appearing for respondents 3 to 5, affirmed that his clients have agreed, in Ext.P4, to re-transfer the property in question to the petitioner. He submitted that his clients are still willing to do so and that they will complete the steps for the same without any avoidable delay. He, however, voiced an apprehension that his clients should not face any trouble in future from either the petitioner - senior citizen, or her son - the 6th respondent.

Taking note of the afore submissions, I order this writ petition and set aside Ext.P5; with a consequential direction to the Maintenance Tribunal to ensure that the

undertakings made by respondents 3 to 5 herein, as evident from Ext.P4, are properly implemented. For this purpose, the petitioner will be at liberty to move the Maintenance Tribunal appropriately; and if this is done, the same will be taken up and necessary action thereon completed, adverting to the specific undertaking made before this Court by Sri.K.Shaj as afore, which is hereby recorded.

Necessary action in this regard will be completed by the Tribunal not later than one month from the date on which the petitioner is to move it in terms of the afore liberty.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

akv

APPENDIX OF WP(C) 32239/2022

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE TREATMENT SUMMARY OF PETITIONER ISSUED FROM THE HOSPITAL DATED 08.04.2022
EXHIBIT P2	TRUE COPY OF THE SETTLEMENT DEED NO. 1026 OF 2018 OF THENGANA SRO DATED 04.06.2018
EXHIBIT P3	TRUE COPY OF THE APPLICATION FOR MAINTENANCE FILED BEFORE THE 2ND RESPONDENT DATED 16.05.2022
EXHIBIT P4	TRUE COPY OF THE MEMORANDUM OF SETTLEMENT FILED BY CONCILIATION OFFICER BEFORE THE 2ND RESPONDENT DATED 21.06.2022
EXHIBIT P5	TRUE COPY OF THE ORDER OF 2ND RESPONDENT DATED 12.07.2022
EXHIBIT P2(A)	TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P2
EXHIBIT P3(A)	TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P3
EXHIBIT P4(A)	TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P4 (PAGE NO. 2 TO 4)
EXHIBIT P5(A)	TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P5

RESPONDENT EXHIBITS

EXHIBIT R3 (A)	THE TRUE COPY OF THE M.C. 91/2022 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE 1, CHANGANACHERY FILED BY THE 3RD RESPONDENT .

EXHIBIT R3 (B)	THE TRUE COPY OF THE ORDER DATED 19/05/2022 IN M.C. 91/2022 OF THE JUDICIAL FIRST CLASS MAGISTRATE 1, CHANGANACHERY .