



2026:KER:68437
CNR : KLHC010531682021

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

TUESDAY, THE 8TH DAY OF SEPTEMBER 2026 / 17TH BHADRA, 1948

WP(C) NO.20466 OF 2021

PETITIONER:

HAJARA, AGED 52 YEARS,
W/O. LATE ABDULLA, MUKKATH HOUSE, KANNANCODE,
KOLAVELLOOR, THUVAKUNNU, KANNUR DISTRICT,
PIN-670 693.

BY ADV SRI.C.BHASKARAN

RESPONDENTS:

- 1 THE MAINTENANCE TRIBUNAL,
OFFICE OF THE SUB DIVISIONAL MAGISTRATE,
THALASSERY, KANNUR, PIN-670 101.
- 2 FATHIMA @ MUKKATH PATHU,
AGED 78 YEARS,
W/O. LATE AHAMMED, THATTANTAVIDA HOUSE,
KANNANCODE, KOLAVELLOOR, THUVAKUNNU, KANNUR
DISTRICT, PIN-670 693.
- 3 AYISHA KATTIL,
D/O. LATE AHAMMED, KANNANKODE HOUSE,
THUVAKKUNNU (P.O), KANNUR DISTRICT-670 693.
- 4 ASHARF M., S/O. LATE AHAMMED, MUKKATH HOUSE,
THUVAKKUNNU (P.O), KANNUR DISTRICT-670 693.



- 5 RUKIYA K., D/O. LATE AHAMMED,
KANIYAN KUNIYIL HOUSE, KADAVATHUR, CHOKLI (P.O),
KANNUR DISTRICT-670 676.
- 6 ISMAIL M., S/O. LATE AHAMMED,
THATTANTAVIDE HOUSE, KANNANKODE,
THUVAKKUNNU (P.O),
KANNUR DISTRICT-670 693.

BY ADVS.

SRI.CIBI THOMAS

SMT.MINTU CHERIAN, GOVERNMENT PLEADER

SMT. MEENAKSHI FOR R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08.09.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**"C.R."****JUDGMENT**

The petitioner is stated to be a widow and the daughter-in-law of the 2nd respondent, having married late Abdulla, son of the 2nd respondent. Apart from the deceased Abdulla, the 2nd respondent has other children – respondents 3 to 6. After the death of the petitioner's husband, Abdulla, the mother executed Ext.P3 settlement deed dated 20.02.2021, settling certain properties in the name of the petitioner, however, reserving life interest over the property.

2. The 2nd respondent – mother-in-law - sought to institute an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act'), making reference to the settlement deed at Ext.P3 and contending that in spite of the stipulations contained in Ext.P3, the petitioner is not looking after the affairs of the 2nd respondent. The Maintenance Tribunal passed Ext.P4 order



dated 16.07.2021, taking into account the rival contentions, as well as taking into account the conciliation report in the matter, directing the petitioner herein to make a payment of Rs.10,000/- every month to the Bank account of the 2nd respondent. In Ext.P4 it is categorically recorded that the 2nd respondent, mother-in-law of the petitioner, is residing with Ismail, her son, who is the 6th respondent herein, and she would like to continue to reside with Ismail.

3. It is seeking to challenge Ext.P4 issued by the Maintenance Tribunal, that the petitioner has instituted the captioned writ petition.

4. I have heard Sri.Arjun C. Bhaskar, the learned counsel for the petitioner, Smt.Mintu Cherian, the learned Government Pleader for the 1st respondent, as well as Smt.Meenakshi V.S., the learned counsel representing Sri. Sibi Thomas, for the 2nd respondent as well as her children – respondents 5 and 6. There is no appearance from the side of respondents 3 and 4, despite service of notice.



5. The learned counsel for the petitioner would contend that, admittedly, the 2nd respondent – mother-in-law – is staying with the 6th respondent. He would further point out that the 2nd respondent has other children – as noticed earlier – and, curiously enough, the 2nd respondent has only sought to enforce payment of maintenance against the petitioner herein, who is the daughter-in-law of the 2nd respondent.

6. *Per contra*, Smt.Meenakshi, the learned counsel for the party respondents as noticed earlier, would contend that in the light of Ext.P3, the petitioner had a duty to maintain the 2nd respondent, and the petitioner has not even permitted the 2nd respondent to enter into the property, or to enjoy the fruits from the property. She would further state that the order at Ext.P4 is one pursuant to conciliation, and hence this Court is not to interfere.

7. I have considered the rival contentions as well as the connected records.



8. Two issues arise for consideration in this writ petition. The first issue is as to whether the 2nd respondent is entitled to seek payment of maintenance from the petitioner herein. As already noticed, the 2nd respondent had as many as five children, including the husband of the petitioner, who is no more. The other children of the 2nd respondent are impleaded in the writ petition as respondents 3 to 6. The 2nd respondent has, however, sought to initiate proceedings under the Act only against the petitioner herein. It is also to be noticed that in the impugned order of the Maintenance Tribunal, the fact that the 2nd respondent has other children and she has sought to institute the proceedings only with reference to the contents of Ext.P3 settlement deed has been recorded. Furthermore, Ext.P4 states that the 2nd respondent is residing with the 6th respondent - son and she wanted to continue to reside with the 6th respondent subsequently also.

9. On the face of the afore, this Court notices the averments contained in ground B of the writ petition to the effect



that the other children of the 2nd respondent – respondents 3 to 6 are “in a financially well-off position, and they are having sufficient means to maintain the 2nd respondent mother”. In spite of the specific averments contained in the writ petition to that effect, there is no rebuttal from the side of the mother or the other children. In fact, only the 2nd respondent has chosen to file a counter affidavit again repeating the submissions made before the Maintenance Tribunal in the application filed under the Act.

10. In my opinion, when the 2nd respondent has other children, the 2nd respondent may not be justified in picking and choosing the petitioner alone for payment of maintenance to her. This is especially so since the petitioner is none other than the wife of the petitioner’s deceased son. This ought to have been taken into account by the 2nd respondent while instituting the proceedings before the Maintenance Tribunal.

11. Above all, the larger issue that arises for consideration is whether the Maintenance Tribunal has any power or authority



to pass an order in the nature of Ext.P4. An order for maintenance can be passed under the Act only with reference to the provisions of Section 9 of the Act thereof. Section 9 thereof reads as under:-

"9. Order for maintenance-

(1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month."

(Underlining supplied)

A reading of Section 9 of the Act would show that it is only the "children or relatives who can be directed to make payment of monthly maintenance to the senior citizen". The definition of the term "children and relative" under the provisions of Sections 2(a) and 2 (g) also requires to be noticed as under:-



"2(a) "children" includes son, daughter, grandson and grand-daughter but does not include a minor.

2(g) "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;"

From a reading of the afore definition clauses, I am of the opinion that a daughter-in-law has not been roped into the provisions of the statute. True, Section 2(g) of the Act defines the term "relative" as a legal heir of a childless senior citizen. However, since admittedly the 2nd respondent has other children, including the petitioner's deceased husband, even the provisions of Section 2(g) cannot be applied.

12. On the whole, I am of the opinion that the petitioner is entitled to succeed. Hence, this writ petition would stand allowed, setting aside Ext.P4.

Even on the face of the afore, this Court notices that the petitioner has been making payments of amounts as ordered by the Maintenance Tribunal till date. Insofar as the petitioner has made such payments to her mother-in-law, this Court is of the



opinion that the mother-in-law need not refund the afore
amounts to the petitioner.

The writ petition is disposed of as above.

Sd/-

HARISANKAR V. MENON
JUDGE

SRJ



APPENDIX OF WP(C) NO.20466 OF 2021

PETITIONER'S EXHIBITS:

- | | |
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| EXHIBIT P1 | PHOTOCOPY OF THE PARTITION DEED 1674 OF 1984 SRO PANOOR DATED 26.11.1984. |
| EXHIBIT P2 | PHOTOCOPY OF THE SETTLEMENT DEED NO.87 OF 2018 SRO PANOOR DATED 12.01.2018. |
| EXHIBIT P3 | PHOTOCOPY OF THE SETTLEMENT DEED DATED 20.02.2021 EXECUTED BY THE 2ND RESPONDENT IN FAVOUR OF THE PETITIONER. |
| EXHIBIT P4 | PHOTOCOPY OF THE ORDER DATED 16.07.2021 PASSED BY THE 1ST RESPONDENT. |
| EXHIBIT P5 | TRUE COPY OF THE PAY-IN SLIP RECEIPTS DATED 24/03/2023. |
| EXHIBIT P6 | TRUE COPY OF THE RECEIPTS FROM CANARA BANK FOR PLEDGING OF GOLD ORNAMENTS DATED 24/03/2023. |
| EXHIBIT P7 | TRUE COPY OF THE SETTLEMENT DEED NO. 87/2018 DATED 12/01/2018. |
| EXHIBIT P8 | TRUE COPY OF THE PAYMENT RECEIPT DATED 22/05/2023. |
| EXHIBIT P9 | TRUE COPY OF THE SETTLEMENT DEED NO. 86/2018 DATED 12/01/2018. |
| EXHIBIT P10 | A TRUECOPY OF PASSPORT FOR THE PERIOD FROM JANUARY, 2021 TILL DATE. |
| EXHIBIT P11 | TRUE COPY OF THE RECEIPTS BEARING NO. KSBK001758 DATED 11.06.2026, EVIDENCING PAYMENTS BY THE PETITIONER TO THE 2ND RESPONDENT. |