

Vallikutty vs Appellate Tribunal and District Magistrate, Palakkad

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Court : Kerala

Decided On : Nov-10-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/29970/2023

Appellant : Vallikutty

Respondent : Appellate Tribunal and District Magistrate, Palakkad

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN FRIDAY, THE 10TH DAY OF NOVEMBER 2023 / 19TH KARTHIKA, 1945 WP(C) NO. 29970 OF 2023 PETITIONER: VALLIKUTTY W/O.LATE KASU AGED 71 YEARS KOOTTAMOCHI HOUSE, PUTHIYANKAM P.O, THRIPPALUR, ALATHUR, PLAKKAD, PIN - 678545 BY ADVS. V.S.SHIRAZ BAVA V.E.ABDUL GAFOOR A.MOHAMMED SAVAD T.R.VISHNU AMEENA MUHAMMED RESPONDENTS:

1 APPELLATE TRIBUNAL AND DISTRICT MAGISTRATE, PALAKKAD, CIVIL STATION, PALAKKAD, PIN - 678001 2 PALAKKAD

MAINTENANCE TRIBUNAL & REVENUE DIVISIONAL OFFICER,
PARAKKUNNAM, VIDYUT NAGAR, PALAKKAD, PIN - 678001 3
JYOTHIMOL S. D/O.LATE SHIVARAMAN, POLIMBANKKAD,
MADAMPARA, KUNISSERRY P.O, ALATHUR, PALAKKAD, PIN -
678688 BY ADVS. S.RENJITH
P.K.SREEVALSAKRISHNAN(K/581/2005) S.UNNIKRISHNAN
(NELLAD)(K/211/2006) K.R.PRATHISH(K/174/2013) JOEL
CHALAMANA(K/001360/2022) KRISHNA DAS(K/003368/2022)
SRI.SUNIL KUMAR KURIAKOSE - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10.11.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: WP(C) NO. 29970 OF 2023 2

JUDGMENT

The petitioner calls into question Exts.P5 and P7 orders of the Statutory Maintenance Tribunal and the Appellate Tribunal respectively, under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act for short), on the ground that said Authorities have acted in error, in refusing to act upon her complaint.

2. Sri.V.S.Shiraz Bava - learned counsel for the petitioner, however,

conceded that his client approached the Maintenance Tribunal and the Appellate Tribunal seeking that, half of the retiral benefits of her deceased son be directed to be paid to her by the 3 rd respondent - wife of the deceased; and that the Tribunals have taken the view that this is not within their purview to consider or order. He submitted that his client has now been, therefore, left without any option but to approach this Court because, during the life time of her son - who was not keeping well, she spent all her savings on him and has now been reduced to the state of a virtual destitute. He submitted that since her daughter-in-law is bound under the Act to take care of her, the petitioner was without error in having approached the Maintenance Tribunal, seeking that a portion of the retiral benefit of her deceased son be released to her.

3. Sri.Sunil Kumar Kuriakose - learned Government Pleader, in

response, submitted that, though the Authorities have empathy for the petitioner, her specific prayer cannot be acceded to by them because, it is WP(C) NO. 29970 OF 2023 3 beyond their statutory competence. He explained that, even going by the petitioners case, her son was employed in the Kerala State Beverages Corporation and that when he died, his retiral benefits became due. He pointed out that since the petitioner is a Class I heir of her deceased - son, she could have certainly approached the said Authority, or invoked other remedies, to claim a portion of the retiral benefits, which she is entitled to. He submitted that this is not something that she ought to have asked under the Act because, she gets a vested right otherwise, as the heir of the deceased, to obtain it. He, therefore, prayed that this writ petition be dismissed because, the competent maintenance Authorities cannot help her in this regard at all.

4. Sri.K.R.Prathish - learned counsel appearing for respondent No.3

- daughter-in-law of the petitioner, conceded that upon her husbands death, the petitioner may have to be construed as his legal heir under law. He argued that, however, these are not issues that the petitioner ought to have raised before the competent Maintenance Officers. He, therefore, prayed that this writ petition be dismissed.

5. When I evaluate Exts.P5 and P7 - which are the orders impugned,

I must say that there is force in the afore recorded submissions of the learned Government Pleader - Sri.Sunil Kumar Kuriakose because, when the petitioner asserts to be the heir of her deceased son, her right to claim his retiral benefits does not flow out of the Act, but from various WP(C) NO. 29970 OF 2023 4 other statutes that cover the field, including the Laws of Succession. Of course, she may have the liberty of moving the Maintenance Officers seeking that the 3rd respondent - her daughter-in-law, maintain her on sufficient reasons; but the proceedings and the impugned orders do not reflect any such plea. She appears to have approached the said Officers squarely seeking that a portion of the retiral benefits of her deceased son be given to her. Obviously, her remedy in this regard

will be to move other competent forums appositely, as also the employer of her deceased son. In the afore circumstances, I close this writ petition without acceding to the challenge against Exts.P5 and P7; however, leaving every other liberty open to the petitioner, including to move the Maintenance Tribunal for any other relief that she may be entitled to under the Act; for which purpose, all contentions are left open. Sd/- DEVAN RAMACHANDRAN JUDGE MC/10.11 WP(C) NO. 29970 OF 2023 5 APPENDIX OF WP(C) 29970/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE MT PETITION NO: 88/2020 FILED BEFORE 2ND RESPONDENT IS PRODUCED HERewith AND MARKED AS EXHIBIT P1. Exhibit P2 TRUE COPY OF THE SAID COUNTER IS PRODUCED HERewith AND MARKED AS EXHIBIT P2 Exhibit P3 TRUE COPY OF THE PLAINT FILED IN O.S

NO:5/2022 ON THE FILES OF ADDITIONAL SUB COURT, PALAKKAD IS PRODUCED HERewith AND THE SAME MAY BE MARKED AS EXHIBIT P3 Exhibit P4 TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER IS PRODUCED HERewith AND MARKED AS EXHIBIT P4 Exhibit P5 TRUE COPY OF THE ORDER DATED 11/04/2022 ISSUED BY THE 2ND RESPONDENT IS PRODUCED HERewith AND THE SAME MAY BE MARKED AS EXHIBIT P5 Exhibit P6 TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT IS PRODUCED HERewith AND THE SAME MAY BE MARKED AS EXHIBIT P6 Exhibit P7 TRUE COPY OF THE ORDER DATED 11.07.2023 PASSED BY THE 1ST RESPONDENT IS PRODUCED HERewith AND THE SAME MAY BE MARKED AS EXHIBIT P7

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