

Priya Resmi vs Radhakrishnan

Priya Resmi vs Radhakrishnan

SooperKanoon Citation : sooperkanoon.com/1442359

Court : Kerala

Decided On : Aug-17-2022

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/1137/2022

Appellant : Priya Resmi

Respondent : Radhakrishnan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN WEDNESDAY, THE 17TH DAY OF AUGUST 2022 / 26TH SRAVANA, 1944 WP(C) NO. 1137 OF 2022 PETITIONER/S: PRIYA RESMI, AGED 41 YEARS W/O. SWARAJ, PERIYAPURATH HOUSE, KANNANKARA, PATTARPALAM, KOZHIKKODE PIN 673 616 BY ADV P.C.SASIDHARAN RESPONDENT/S: 1 RADHAKRISHNAN S/O. CHANDUKUTTY, RESHMI , FAROKE P.O. KOZHIKODE, PIN 673 631 2 RESHMITHA W/O. SUSHEG, PEEYAMVEETIL HOUSE, NORTH BAYPORE, BEYPORE, KOPZHIKODE PIN 673 015 3 THE MAINTENANCE TRIBUNAL FOR THE MAINTENANCE AND WELFARE PARENTS AND SENIOR CITIZENS (THE SUB DIVISIONAL

MAGISTRATE) CIVIL STATION, KOZHIKODE CIVIL STATION P.O, KOZHIKODE 673 020 BY ADVS. M.PROMODH KUMAR MAYA CHANDRAN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 1137 OF 2022 ..2..

JUDGMENT

The petitioner is challenging Ext.P3 order of the

Maintenance Tribunal, whereby the petitioner and the 2 nd respondent herein were directed to pay an amount of Rs.1,000/- towards maintenance to the 1st respondent; their father. Earlier, the Tribunal had passed Ext.P1 order, whereby, the petitioner and the 2nd respondent were directed to pay an amount of Rs.1,000/- each to the

1st respondent. Ext.P1 order was passed by the Maintenance Tribunal on the basis of an alleged undertaking made by the petitioner that she is prepared to maintain the 1st respondent. Ext.P1 order was challenged before this Court contending that no such undertaking was given by the petitioner and this Court by Ext.P2 judgment set aside Ext.P1 order to the extend of the petitioner and directing the Tribunal to re-consider the matter as against the petitioner, after affording an

WP(C) NO. 1137 OF 2022 ..3.. opportunity of being heard.

2. Pursuant to Ext.P2 judgment, the Tribunal passed

Ext.P3 order. In Ext.P3 order, the Tribunal has observed that, though the petition was posted for consideration on several occasions, the petitioner did not turn up. Accordingly, the Tribunal passed Ext.P3 order, confirming Ext.P1 order.

3. It is contended by the learned Counsel for the

petitioner that, Ext.P1 cannot be confirmed in Ext.P3, since, Ext.P1 order has already been set aside by this Court by Ext.P2 judgment. The learned Counsel for

the petitioner refers to Rules 7 and 13 of the Kerala Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 and submits that, the Rules mandate conditions to be satisfied for passing an order of maintenance. It is also contended that the directions in Ext.P2 judgment was not followed by the Tribunal while passing Ext.P3.

WP(C) NO. 1137 OF 2022 ..4..

4. Heard Sri. P.C.Sasidharan, the learned Counsel for the petitioner and Sri.Pramodh Kumar, the learned Counsel for the 3rd respondent.

5. On a perusal of Ext.P3 order, I find that, the said

order is not passed in accordance with the provisions of

the Act and the Rules and the directions in Ext.P2

judgment of this Court. Accordingly, Ext.P3 is set aside.

The Tribunal shall pass fresh orders, in accordance with law, after hearing the petitioner and respondents 1 and 2 and in terms of Ext.P2 judgment, within a period of two months from the date of receipt of a copy of this judgment. The petitioner shall co-operate in the proceedings before the Tribunal. The parties shall appear before the Tribunal on 02.09.2022.

The writ petition is disposed of accordingly. Sd/- MURALI PURUSHOTHAMAN
JUDGE SB/19/08/2022 WP(C) NO. 1137 OF 2022 ..5.. APPENDIX OF WP(C)
1137/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE ORDER
NO. J-2686/18 DATED 14-09-2018 ISSUED BY THE 3D RESPONDENT Exhibit
P2 TRUE COPY OF THE JUDGMENT DATED 30-11-2018 IN W.P9C0NO.
35849/2018 Exhibit P3 TRUE COPY OF THE ORDER IN FILE NO RDO
KKD/7015/2018-J DATED 29-09-2019 ISSUED BY THE 3RD RESPONDENT

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com