



2025:KER:58578

C. R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

THURSDAY, THE 7TH DAY OF AUGUST 2025 / 16TH SRAVANA, 1947

WA NO. 1301 OF 2019

AGAINST THE JUDGMENT DATED 14.11.2018 IN WP(C) NO.14830 OF

2018 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

S.SHEEJA,
AGED 40,
D/O.SARASAMMA, KUZHIVILA VADAKKARIKU PUTHEN VEEDU,
KAZHIVOOR, KAZHIVOOR.P.O., KANJIRAMKULAM,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM-695524.

BY ADVS.
SRI.R.T.PRADEEP
SMT.M.BINDUDAS
SRI.K.C.HARISH

RESPONDENTS/RESPONDENTS:

- 1 MAINTENANCE APPELLATE TRIBUNAL/DISTRICT COLLECTOR,
COLLECTORATE, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM-695043.
- 2 MAINTENANCE TRIBUNAL/REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM-695043.



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- 3 T.E.CICILET ROSILUM,
KUZHIVILAVADAKKARIKU PUTHEN VEEDU, KAZHIVOOR,
KAZHIVOOR.P.O., NEYYATTINKARA,
THIRUVANANTHAPURAM-695524.
- 4 STATION HOUSE OFFICER,
KANJIRAMKULAM POLICE STATION, KANJIRAMKULAM.P.O.,
THIRUVANANTHAPURAM-695524.

BY ADV SMT.S.SUJINI

THIS WRIT APPEAL HAVING COME UP FOR HEARING ON 07.08.2025,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**SATHISH NINAN &
P. KRISHNA KUMAR, JJ.**

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W.A. No.1301 of 2019

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Dated this the 7th day of August, 2025

J U D G M E N T

Sathish Ninan, J.

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, “the Act”) provides for the maintenance and welfare of parents and senior citizens. Is a person who is in possession of the property of the senior citizen bound to maintain him even if he is not a legal heir of the senior citizen? It was answered in the affirmative in the impugned judgment.

2. Shorn of details, the necessary facts for the disposal of the appeal are as under: -

3. The third respondent is a senior citizen. She is unmarried and issueless. On 30.10.1992, she executed Ext.P5 Gift Deed in favour of her nephew, conveying the property to him. The nephew died in the year 2008. The property devolved on his wife, who is the appellant herein. The third



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respondent claims that the appellant is bound to maintain her in terms of Section 4(4) of the Act.

4. The Tribunal held that the appellant is bound to maintain the 3rd respondent. The appeal filed against the same by the appellant was dismissed as not maintainable. The orders were sought to be challenged in W.P(C).14830 of 2018. The writ petition was dismissed by the learned single judge holding that, if the person against whom maintenance is claimed is in possession of or would inherit the property of the senior citizen, then he would be construed as a “relative” in terms of Sections 2(g) and 4(4) of the Act, rendering him liable to maintain the senior citizen.

5. Section 4 of the Act reads thus: -

“4. Maintenance of parents and senior citizens.— (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under Section 5 in case of—

- (i) parent or grand-parent, against one or more of his children not being a minor;*
- (ii) a childless senior citizen, against such of his relative referred to*



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in clause (g) of Section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen.” (emphasis supplied)

The Section entitles a parent to seek for maintenance under Section 5 against his children, and if a person is a childless senior citizen, then, against a ‘relative’ defined under Section 2(g) of the Act. The liability to maintain a senior citizen is on a ‘relative’ of the senior citizen. To attract the section, (i) He must be a relative of the senior citizen; (ii) He must have sufficient means to maintain the senior citizen; and (iii) He must be in possession of the property of the senior citizen or he would inherit his property.



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6. The term “relative” as defined under Section 2 (g) of the Act reads thus: -

“(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.”

The definition has four limbs; (i) The senior Citizen must be childless; (ii) The person against whom maintenance is claimed must be a legal heir of the senior citizen; (iii) Such legal heir must not be a minor; and (iv) Such legal heir must be in possession of the property of the senior citizen or would inherit his property after his death.

7. The first condition to be satisfied is that he must be a person in the class/group of legal heirs of the senior citizen. A ‘legal heir’ is a person who, under the personal law, is entitled to inherit the estate of the deceased. The classes of persons who are legal heirs are as specified in the personal law of the parties. So, the first condition is that the person must be a legal heir of the senior citizen under his personal law.



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8. The other conditions are that such legal heir must be in possession of the property of the senior citizen or would be entitled to inherit his property. It is only on satisfaction of the above conditions that a person would be a “relative” of the senior citizen. It is possible to view it in another manner. The main part of the section names the persons who can be a relative, ie: a legal heir, and the second part prescribes the qualification for such person to be a relative, namely, possession of property of the senior citizen or that he would inherit his property.

9. Anyway, a person who is not a legal heir of the senior citizen cannot be a ‘relative’ under the Act merely for the reason that he is in possession of the property of the senior citizen or would inherit his property. We are unable to agree with the impugned judgment, which held that a person in possession of or would inherit the property of a

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childless senior citizen is to be construed as his relative. Any such construction would do injustice to the plain language of the section.

10. In the case at hand, admittedly, the appellant is not a legal heir of the senior citizen under the Indian Succession Act, which is applicable to the parties. The mere fact that she succeeded to the property of her husband and that the said property was gifted to him by the third respondent, would not make her a 'relative' within the purview of the Act. The appellant, being not the 'relative' as defined under the Act, and the obligation to maintain the senior citizen in terms of Section 4(4) being upon a relative, such obligation cannot be cast upon her. The finding to the contrary is liable to be set aside.

In the result, the writ appeal is allowed. The judgment impugned is set aside. Exts.P2 and P4 orders of the

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Maintenance Tribunal and the Appellate Tribunal will stand quashed. The rights of the third respondent, if any available dehors the proceedings under the Act, for the alleged violation of the terms of the gift, are left open.

Sd/-
SATHISH NINAN
JUDGE

Sd/-
P. KRISHNA KUMAR
JUDGE

kns/-

//True Copy//

P.S. To Judge