



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 16TH DAY OF JULY 2025 / 25TH ASHADHA, 1947

WP(C) NO. 22270 OF 2021

PETITIONERS:

- 1 ANILA, AGED 33 YEARS
W/O. JAYARAMAN, PALAKKIL HOUSE, KANNIABRAM,
OTTAPALAM, PALAKKAD DISTRICT.
- 2 SUBRAMANIAN
C/O. ANILA, PALAKKIL HOUSE, KANNIABRAM,
OTTAPALAM, PALAKKAD DISTRICT.
- 3 GEETHA
W/O. SUBRAMANIAN, PALAKKIL HOUSE,
KANNIABRAM, OTTAPALAM, PALAKKAD DISTRICT.
- 4 AKHIL
S/O. SUBRAMANIAN, POOZHITHODI KOVILINGAL HOUSE,
PALODE PO, THACHANATTUKARA, MANNARKKAD.
- 5 ROSHNI, W/O. AKHIL, POOZHITHODI KOVILINGAL HOUSE,
PALODE PO, THACHANATTUKARA, MANNARKKAD,
PALAKKAD DISTRICT.

BY ADV SRI.H.PRAVEEN (KOTTARAKARA)

RESPONDENTS:

- 1 MAINTENANCE TRIBUNAL AND SUB DIVISIONAL MAGISTRATE
OTTAPALAM, PALAKKAD DISTRICT-679 101.
- 2 RAMANI
W/O. RAVUNNI, PALAKKAL HOUSE, KANNIAPURAM (PO),
OTTAPALAM, PALAKKAD DISTRICT-679 101.

BY ADVS.
SRI.P.HARIDAS
SHRI.BIJU HARIHARAN



SMT.SHIJIMOL M.MATHEW
SRI.P.C.SHIJIN
SRI.RISHIKESH HARIDAS
SMT.ROSHIN MARIAM JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16.07.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



‘CR’

VIJU ABRAHAM, J.

.....
W.P.(C) No.22270 of 2021
.....

Dated this the 16th day of July, 2025

JUDGMENT

The above writ petition is filed challenging Ext.P10 order issued by the 1st respondent as per the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short, “Senior Citizens Act, 2007”).

2. Brief facts necessary for disposal of the writ petition are as follows: The 2nd respondent is the mother-in-law of the 1st petitioner, and the petitioner before the 1st respondent Maintenance Tribunal, and other petitioners are parents and relatives of the 1st petitioner. The 2nd respondent filed Ext.P1 complaint before the 1st respondent Tribunal requesting to permit her to reside on the first floor of the building in which the petitioners are residing on the ground floor. Ext.P1 complaint was resisted by the petitioners herein by filing Exts.P2 and P3 objections mainly contending that the 1st petitioner has approached the Judicial First Class Magistrate Court, Mannarkkad filing M.C.No.28 of 2021 (Ext.P4) invoking Section 18 of the Protection of Women from Domestic Violence



Act, 2005 (in short, “Domestic Violence Act, 2005”), alleging domestic violence and C.M.P.No.549 of 2021 (Ext.P5) was filed seeking protection orders. Ext.P6 interim order dated 05.03.2021 was issued whereby respondents 2 to 6 were restrained from causing any kind of nuisance or hindrance to the petitioners’ peaceful living in the shared house bearing No.9/28 (old survey No.28/13). In Ext.P6 interim order further directions were also issued. Petitioners would submit that complaints were also filed before the police as Exts.P8 and P9, alleging harassment and ill-treatment by the 2nd respondent and others. Without considering any of these aspects, by Ext.P10 order, the 1st respondent Tribunal invoking the powers under the Senior Citizens Act, 2007, permitted the 2nd respondent to reside in the said building where the petitioners are residing, and the petitioners were directed not to cause any mental or physical torture towards the 2nd respondent. It is aggrieved by the same that the present writ petition has been filed.

3. It is contended that as the 1st petitioner is the daughter-in-law of the 2nd respondent, no complaint is maintainable against her as per the provisions of the Senior Citizens Act, 2007. It is also submitted based on the judgment of the Apex Court in **Vanitha v. Deputy Commissioner, Bengaluru Urban District, 2021 (1) KLT 80** that the right of the 1st petitioner to secure a residence or in respect of a shared household cannot be defeated by securing an order of eviction by adopting the



summary procedure under the Senior Citizens Act, 2007 as directed in the present case. It is further submitted that if the 2nd respondent is allowed to stay in the house where the petitioners are residing on the strength of Ext.P6 order issued under the Domestic Violence Act, 2005, there is every chance of threatening and harassing the petitioner. It is on the said grounds, the present writ petition has been filed.

4. A detailed counter affidavit has been filed by the 2nd respondent denying the fact that her son who is the husband of the 1st petitioner has neglected the 1st petitioner and their minor children and contended that her son is working abroad in connection with his employment and the 1st petitioner is residing at Kannur and is working as a teacher in Government service. Though the 2nd respondent admitted the issuance of Ext.P6 order, it is contended that the proceedings issued as per Ext.P10 are not in conflict with Ext. P6 order. It is further submitted that the 2nd respondent and her husband have no other property/building to reside and the subject property originally belongs to the 2nd respondent as per sale deed No.2021 of 2016 of SRO, Ottappalam and the same was transferred in favour of her son as per settlement deed No.2368 of 2020 and that the said building is a two storied one with separate entrance to the first floor and it is considering all these aspects that Ext.P10 order was issued permitting the 2nd respondent and her husband to reside in the first floor of the building having door No.28/13-2. Ext.R2(a) series of photographs are produced to



show that a separate entrance is provided to the first floor of the building. It is further contended that though the property was transferred in favour of her son, who is the husband of the 1st petitioner as per settlement deed No.2368 of 2020, a suit was filed as O.S.No.196 of 2023 before the Munsiff's Court, Ottappalam wherein the gift deed in favour of the son was set aside and the suit was allowed as per Exts.R2(b) judgment and R2(c) decree was passed. In view of the above, the 2nd respondent is now in ownership of the said building and the petitioners cannot object to the residence of the 2nd respondent on the first floor of the building bearing No.28/13-2. It is further submitted by the 2nd respondent that she has no intention to violate the directions in Ext.P6 order issued by the Judicial First Class Magistrate Court, Mannarkkad, as per the provisions of the Domestic Violence Act, 2005.

5. I have heard the rival contentions on both sides.

6. It is true that by Ext.P6 interim order invoking the power under the Domestic Violence Act, 2005, a direction was issued to respondents 2 to 6 therein, which includes the 2nd respondent herein, not to cause any kind of nuisance or hindrance to the petitioners' peaceful living in the shared house bearing No.9/28. On the other hand, it is invoking the provisions of the Senior Citizens Act, 2007, that Ext.P10 order was issued by the Maintenance Tribunal in favour of the 2nd respondent. It is an admitted case that Ext.P6 order was issued at a time when the husband of



the 1st petitioner was in ownership and possession of the building and that alleging harassment and physical abuse against the husband that the 1st petitioner along with minor children has approached the Judicial First Class Magistrate Court, Mannarkkad under the provisions of the Domestic Violence Act, 2005 which led to issuance of Ext.P6 order. It is also not in dispute that the 2nd respondent was the original owner of the said property, which has been assigned to her son, who is the husband of the 1st petitioner and later the gift deed was cancelled as per Ext.R2(b) judgment in O.S.No.196 of 2023 of the Munsiff's Court, Ottappalam.

7. Essentially, three grounds are raised by the petitioners challenging Ext.P10 order passed by the 1st respondent in favour of the 2nd respondent. First contention is that the said order violates the decision of the Apex Court in **Vanitha's** case cited supra, and contended that the right of women to secure a residence in respect of a shared household cannot be defeated by an order under the Senior Citizens Act, 2007. Yet another contention raised by the petitioners is that the 1st petitioner, being the daughter-in-law of the 2nd respondent, proceedings under the Senior Citizens Act, 2007, cannot be maintained against her, and therefore, Ext.P10 order is without jurisdiction. Further contention raised by the petitioners is that there were several instances of physical torture on the 1st petitioner, and if the 2nd respondent is permitted to reside in the said building where the 1st petitioner and others are residing, it will result in



further physical and mental torture towards the 1st petitioner.

8. Let me first consider the contention raised based on the judgment of the Apex Court in **Vanitha's** case cited supra. Paragraphs 22 and 23 of the said judgment read as follows:

“22. This Court is cognizant that the Senior Citizens Act, 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under S.7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under S.8. The jurisdiction of the Civil Courts has been explicitly barred under S.27 of the Senior Citizens Act, 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act, 2007 under S.3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act, 2005. The PWDV Act, 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under S.2(b) of the Senior Citizens Act, 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act, 2005. S.26 (26. Relief in other suits and legal proceedings. - (1) Any relief available under S.18, S.19, S.20, S.21 and S.22 may also be sought in any legal proceeding, before a Civil Court, Family Court or a Criminal Court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a Civil or Criminal Court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief) of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation



between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act, 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act, 2005 and Senior Citizens Act, 2007. S.3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a 'shared household' under S.17 of the PWDV Act, 2005. In the event that the "aggrieved woman" obtains a relief from a Tribunal constituted under the Senior Citizens Act, 2007, she shall duty-bound to inform the Magistrate under the PWDV Act, 2005, as per sub-section (3) of S.26 of the PWDV Act, 2005. This course of action would ensure that the common intent of the Senior Citizens Act, 2007 and the PWDV Act, 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization.

23. Adverting to the factual situation at hand, on construing the provisions of sub-section (2) of S.23 of the Senior Citizen Act, 2007, it is evident that it applies to a situation where a senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred. On the other hand, the appellant's simple plea is that the suit premises constitute her 'shared household' within the meaning of S.2(s) of the PWDV Act, 2005. We have also seen the series of transactions which took place in respect of the property: the spouse of the appellant purchased it in his own name a few months before the marriage but subsequently sold it, after a few years, under a registered sale deed at the same price to his father (the father-in-law of the appellant), who in turn gifted it to his spouse i.e. the mother-in-law of the appellant after divorce proceedings were instituted by the Fourth respondent. Parallel to this, the appellant had instituted proceedings of dowry harassment against her mother-in-law and her estranged spouse; and her spouse had instituted divorce proceedings. The appellant had also filed proceedings for maintenance against the Fourth respondent and the divorce proceedings are pending. It is subsequent to these events, that the Second and Third respondents instituted an application under the Senior Citizens Act, 2007. The fact that specific proceedings under the PWDV Act, 2005 had not been instituted when the application under the Senior Citizens Act, 2007 was filed, should not lead to a situation where the enforcement of an order of eviction deprives her from pursuing her claim of entitlement under the law. The inability of a woman to access judicial remedies may, as this case exemplifies, be a consequence of destitution, ignorance or lack of resources. Even otherwise, we



are clearly of the view that recourse to the summary procedure contemplated by the Senior Citizen Act, 2007 was not available for the purpose of facilitating strategies that are designed to defeat the claim of the appellant in respect of a shared household. A shared household would have to be interpreted to include the residence where the appellant had been jointly residing with her husband. Merely because the ownership of the property has been subsequently transferred to her in-laws (Second and Third Respondents) or that her estranged spouse (Fourth respondent) is now residing separately, is no ground to deprive the appellant of the protection that was envisaged under the PWDV Act, 2005."

The Apex Court in **Vanitha's** case cited supra has not held that the provisions of the Senior Citizens Act, 2007 cannot be invoked when there is a protection order granted as per the provisions of the Domestic Violence Act, 2005. The Court has only held that the overriding effect of remedy sought under Section 3 of the Senior Citizens Act, 2007 cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the Domestic Violence Act, 2005 and the Apex Court further held that merely because the ownership of the property has been subsequently transferred to the in-laws or that her estranged spouse is now residing separately, is no ground to deprive the appellant therein of the protection that was envisaged under the Domestic Violence Act, 2005. The Apex Court in the said judgment only held that by any order passed under the Senior Citizens Act, 2007, any benefit obtained by an applicant as per the provisions of the Domestic Violence Act, 2005 cannot be precluded. In the present case, the specific submission of the learned counsel appearing for the 2nd respondent is that the building is a



two storied one and the petitioners are residing in the ground floor of the building and that a separate entrance is provided to the first floor of the said building and the 2nd respondent intend to reside in the first floor and has no objection in the petitioners residing in the ground floor as permitted in Ext.P6 order and she has no intention to violate any of the terms and conditions stated in Ext.P6. Therefore, Ext P10 order will not in any circumstances, interfere with the right of the petitioner to have a shared household as provided for in Ext P6 order. The High Court of Delhi in **Pooja Mehta and others v. Government of NCT of Delhi and others, 2024 SCC OnLine Del 7112** while considering the balancing rights of the parties as per the provisions of the Senior Citizens Act, 2007 and the Domestic Violence Act, 2005, has held that the Court must evaluate the nature of relationship between the parties and strike a balance between the Senior Citizens Act, 2007 and the Domestic Violence Act, 2005. In view of the above, I find no merit in the first contention raised by the petitioners.

9. The second contention raised by the petitioners is that the proceedings under the Senior Citizens Act, 2007, will not lie against the 1st petitioner, who is the daughter-in-law of 2nd respondent. Referring to Section 4 of the Senior Citizens Act, 2007, which deals with the maintenance of parents and senior citizens, it is submitted that an



application under Section 5 of Senior Citizens Act, 2007 for maintenance could be filed only against the children or relatives in case the senior citizen is childless. Learned counsel for the petitioners would submit that the word “children” is defined in Section 2(a) and the word “relative” is defined in Section 2(g) of the Senior Citizens Act, 2007. Sections 2(a) and 2(g) dealing with the definition of words “children” and “relative” are extracted below:

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

“(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”

Section 4 of of Senior Citizens Act, 2007 deals with “maintenance of parents and senior citizens” which provides that a senior citizen, including a parent who is unable to maintain himself, could make an application under Section 5. Section 5 deals with the filing of an application for maintenance. It is profitable to extract the definition of “maintenance” and “welfare” as available in Section 2(b) and (k), which reads as follows:

2. (b) “maintenance” includes provision for food, clothing, residence and medical attendance and treatment;

(k) “welfare” means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

(underline supplied)



It is true that a contention is raised by the learned counsel appearing for the petitioners that the complaint is not maintainable based on the judgment of this Court in **Pramod V. v. Vimala V., 2024 KHC 778** wherein this Court while considering an application filed under Section 23 of the Senior Citizens Act, 2007 to declare a transfer of property as void and held that an application for maintenance before the Maintenance Tribunal seeking eviction from the residential house could be invoked only against the children or relative as defined in the Senior Citizens Act, 2007 and the petitioner therein not being a child or relative of the senior citizen, an application in this regard is not maintainable before the Maintenance Tribunal. It is true that the 1st petitioner, being the daughter-in-law of the 2nd respondent, is not coming within the definition of 'children' or 'relative' as provided in the Senior Citizens Act, 2007. It is pertinent to note that in the present case, Ext.P6 order as per the provisions of the Domestic Violence Act, 2005 was issued at a time the house was in the ownership of the husband of the petitioner, who is the 1st respondent in the said proceedings and direction was issued permitting the petitioners peaceful living in the shared household. While so, Ext.P10 was also issued in favour of the 2nd respondent as per the provisions of the Senior Citizens Act, 2007, permitting her residence in the very same house, but on the first floor, which is assigned a separate number and also a separate entrance. After Ext.P10 was issued, the property is now in the ownership of the 2nd



respondent based on the judgment and decree of the competent Civil Court, which declared the transfer of the property in the name of the husband of the petitioner as null and void. It is also not in dispute that the 2nd respondent and her husband, who are senior citizens, have no other place of residence. Further, it is admitted by the 2nd respondent that she has no intention to evict the petitioner from the present shared household, and only that is required is to permit her to reside along with her husband on the first floor of the said building. It is only the petitioners who are residing in the said building who are challenging the residence of the 2nd respondent in the said building on the basis of Ext.P10 order. It is in this factual context that the challenge against Ext.P10 order is to be examined.

10. The object of the Senior Citizens Act, 2007, is to protect and provide effective provisions for the maintenance and welfare of parents and senior citizens. The definition of maintenance in Section 2(b) of the Senior Citizens Act, 2007 includes provision for residence also. Section 2(k) defines 'welfare' to include provision for food, healthcare, recreation centres and other amenities necessary for the senior citizens. What is required by the 2nd respondent is a provision for residence, which has been granted as per Ext.P10. Providing a safe shelter/residence to a senior citizen will also come under the purview of "maintenance" in Section 2(b) and also "welfare" as per Section 2(k) of the Senior Citizens Act,



2007. The Telangana High Court in **Deepika H. v. Maintenance Welfare of Parents and Others, 2020 KHC 3702** considered the definition of “children” and “relative” as provided in the Senior Citizens Act, 2007 keeping in view the purpose of the enactment and held as follows:

“15. S.2(a) of the Act defines 'Children' and S.2(g), defines 'relative'. They are extracted as under:

'Children' includes son, daughter, grandson and grand - daughter but does not include a minor.

'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.

16. If the above definitions of 'children' and 'relative' are read, keeping in view the purpose of enactment as stated under the 'objects and reasons', it is clear that their meaning under the definitions, is restricted only to son, daughter, grandson and grand - daughter, and legal heir of the childless senior citizen, who is not a minor and is in possession or would inherit the property of a senior citizen after his death. As noted above, the object of the enactment is to cast an obligation not only on the family, but also on the 'persons' who inherit the property of their aged relatives to maintain such aged relatives. Family has larger connotations and the same is also defined under the Act. In a given situation, like the present case, where the daughter - in - law is in possession of the property of parents - in - law, and made them to reside in a rented accommodation, and her husband, who is the son of respondents 3 and 4, living somewhere, can it be said that claim against the 'daughter - in - law' for protection of property of senior citizens, is not maintainable, as she is not covered under the above definitions? The answer would always be 'no' . In situations where the applicant will be having children, and the circumstances justify claim for maintenance, or for protection of life and property against his or her son - in - law and daughter - in - law, and also on such other persons who are in possession, and could inherit the property of senior citizen, then going by the definitions of 'children' or 'relative' , the applicant would be disabled to make



any claim, since those persons are not covered under the above definitions, and as such, the purpose of enactment, would be of no avail to such senior citizen, or a parent as the case may be, and they have to undergo the ordeal of regular trial under the common law remedies, which is of time consuming and expensive. In order to avoid such time consuming process, and to provide simple and inexpensive speedy remedy, Parliament in all its wisdom, have introduced the special enactment, to help people, who are in their old age. Therefore, if the persons like son - in - law and daughter - in - law and such other persons, who would be entitled in law, to inherit the property of such relative, are not brought within the sweep of the definition of 'children' under S.2(a), it would be amounting to giving a narrow interpretation, and in a way defeating the very purpose of enactment.

.....

18. In view of the objects and reasons of the Act and the judgment of the Apex Court and to achieve the intendment of the enactment, and having regard to the facts and circumstances of the case, where the daughter - in - law has squat over the property of the parents - in - law and made them to reside in a rented accommodation, this court is of the considered view, that 'daughter - in - law' , would also come within the sweep of the definition of 'children' and the respondents 3 and 4 herein, are entitled to maintain application against the petitioner invoking the provisions of the Act.

.....

44. To sum up, in the present case, as the petitioner has married the son of respondents 3 and 4, she became their daughter - in - law, and by virtue of said relation, she has come into the possession of the subject property, and she is also asserting her right over the property by virtue of said relation. Admittedly, the property belongs to the 3rd respondent, which is stated to be her sthridhana property. As the respondents 3 and 4, are forced to reside in a rented accommodation, in spite of having their own, which is in the possession of the petitioner, they sought for restoration of possession by invoking the provisions of the Act. As discussed above, this court held that provisions of the Act are applicable not only for seeking maintenance by the senior citizen or a parent as



the case may be, but also for seeking protection of their life and property, and that the petitioner who is their daughter - in - law, would fall within the ambit of definition of 'children' under S.2(a) of the Act, and hence amenable to the jurisdiction of the Act. To resist the claim of 25 respondents 3 and 4 for restoration of possession, the petitioner has no justifiable defence. Therefore, the Tribunal, considering the facts and circumstances of the case, ordered for restoration of possession, and hence no exception can be taken. Moreover, this court is not sitting in appeal over the findings given by the Tribunal. ”
(underline supplied)

The Telangana High Court in **Deepika H.**'s case cited supra has held that the daughter-in-law who is in possession of the property will also come within the ambit of the definition of children under Section 2(a) of the Senior Citizens Act, 2007. This Court in **Sheeja S. v. Maintenance Appellate Tribunal/District Collector, Tvm and others, 2018 (5) KHC 634** while considering the provisions of Sections 2(b), 2(g) and 4(4) of the Senior Citizens Act, 2007 has held that a person would be construed to be a relative of a childless senior citizen, if such person is in possession or would inherit his/her property. A similar view was taken by this Court in **Reju and another v. Maintenance Tribunal, Tvm and others, 2016 (2) KHC 429**, considering the definition of the words “children” and “relative” under Sections 2(a) and 2(g) of the Senior Citizens Act, 2007 with specific reference to the definition of the word “welfare” in Section 2(k) of Senior Citizens Act, 2007 and held that it is open to the Tribunal to impose a liability for providing welfare measures on whom the Tribunal deem fit that it can be imposed, based on the accepted relationship between the



parties, though, such persons would not come within the ambit of children or relative as defined under the Senior Citizens Act, 2007, or else the very purpose of the Act would be defeated.

11. It is pertinent to note that the definition of the word “children” in Section 2(a) of the Senior Citizens Act, 2007 mandates that “children” includes son, daughter, grandson and grand daughter but does not include a minor. The Telangana High Court in **Deepika H.**’s case cited supra while considering a contention as to who all will come within the word “children” has held that if there is a doubt as to whether a person is included in the definition of “children” or “relative” in the Senior Citizens Act, 2007, the Court has to take the aid of tools like purposive interpretation and *casus omissus* to achieve the intended purpose of the enactment. In view of the objects and reasons of the Senior Citizens Act, 2007 and to achieve the intendment of the enactment and having regard to the facts and circumstances of the case it was also held that the daughter-in-law has squat over the property of the parents-in-law and made them to reside in a rented accommodation, the daughter-in-law would also come within the sweep of the definition of “children” and an application for maintenance will be perfectly maintainable before the Maintenance Tribunal. The Apex Court in **Singareni Collieries Co.Ltd. v. Vemuganti Ramakrishan Rao and others, 2013 KHC 4677** was considering whether the doctrine of



“*casus omissus*” could be applied in formulating the intended purport of the statute or provision in question and what would be the substance of the provision that the Parliament would have made but for the error in the bill of law and held in paragraphs 18 and 19 as follows:

“18. Secondly, because the legal position regarding applicability of the doctrine of casus omissus is settled by a long line of decisions of this Court as well as Courts in England. Lord Diplock in Wentworth Securities v. Jones, 1980 AC 1974, revived the doctrine which was under major criticism, by formulating three conditions for its exercise namely, (1) What is the intended purpose of the statute or provision in question; (2) Whether it was by inadvertence that the draftsman and the Parliament had failed to give effect to that purpose in the provision in question; and (3) What would be the substance of the provision that the Parliament would have made, although not necessarily the precise words that the Parliament would have used, had the error in the Bill been noticed. The House of Lords while approving the above conditions in Inco Europe v. First Choice Distribution, 2000 (1) All ER 109, went further to say that there are certain exceptions to the rule inasmuch the power will not be exercised when the alteration is far-reaching or when the legislation in question requires strict construction as a matter of law.

19. The legal position prevalent in this country is not much different from the law as stated in England. This Court has in several decisions held that casus omissus cannot be supplied except in the case of clear necessity and when reason for it is found within the four corners of the statute itself. The doctrine was first discussed by Justice V.D. Tulzapurkar in the case of Commissioner Of Income Tax, Central Calcutta v. National Taj Tradus, 1980 (1) SCC 370. Interpretative assistance was taken by this Court from Maxwell on Interpretation of Statutes (12th Edn.) pg. 33 and 47. The Court said:

“10. Two principles of construction—one relating to casus omissus and the other in regard to reading the statute as a whole—appear to be well settled. In regard to the former the following statement of law appears in Maxwell on Interpretation of Statutes (12th Edn.) at page 33:

Omissions not to be inferred—“It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something



which it omitted to express. Lord Mersey said: 'It is a strong thing to read into an Act of Parliament words which are not there, and in the absence of clear necessity it is a wrong thing to do.' 'We are not entitled,' said Lords Loreburn L.C., 'to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself.' A case not provided for in a statute is not to be dealt with merely because there seems no good reason why it should have been omitted, and the omission in consequence to have been unintentional.

In regard to the latter principle the following statement of law appears in Maxwell at page 47:

A statute is to be read as a whole-"It was resolved in the case of Lincoln College (1595) 3 Co. Rep. 58 that the good expositor of an Act of Parliament should 'make construction on all the parts together, and not of one part only by itself.' Every clause of a statute is to 'be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole statute.' (Per Lord Davey in Canada Sugar Refining Co., Ltd. v. R: 1898 AC 735)

In other words, under the first principle a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. "An intention to produce an, unreasonable result", said Danckwerts L.J. in Artemiou v. Procopiou, 1966 (1) Q.B. 878 "is not to be imputed to a statute if there is some other construction available." Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result" we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction, (Per Lord Reid in Luke v. I.R.C.-1968 AC 557 where at p. 577 he also observed: "this is not a new problem, though our standard of drafting is such that it rarely emerges. In the light of these principles we will have to construe Sub-section (2)(b) with reference to the context and other clauses of Section 33B."



It is pertinent to note that the word used in the definition of “children” in the Senior Citizens Act, 2007 is ‘includes’ son, daughter etc. The Apex Court in **P. Kasilingam and others v. P.S.G. College of Technology and others, 1995 KHC 606** was considering the expressions “means” and “includes” and held that use of the word “means” indicates that the definition is a hard and fast definition and no other meaning can be assigned to the expression than what is put down in definition, but the word “includes” when used enlarges the meaning of the expression defined so as to comprehend not only such things as they signify according to their natural import but also those things which the clause declares that they should include. Paragraph 19 of the said judgment reads as follows:

“19. We will first deal with the contention urged by Shri Rao based on the provisions of the Act and the Rules. It is no doubt true that in view of clause (3) of S.1 the Act applies to all private colleges. The expression “college” is, however, not defined in the Act. The expression “private college” is defined in clause (8) of S.2 which can, in the absence of any indication of a contrary intention, cover all colleges including professional and technical colleges. An indication about such an intention is, however, given in the Rules wherein the expression “college” has been defined in R.2(b) to mean and include Arts and Science College, Teachers Training College, Physical Education College, Oriental College, School of Institute of Social Work and Music College. While enumerating the various types of colleges in R.2(b) the rule making authority has deliberately refrained from including professional and technical colleges in the said definition. It has been urged that in R.2(b) the expression “means and includes” has been used which indicates that the definition is inclusive in nature and also covers categories which are not expressly mentioned therein. We are unable to agree. A particular expression is often defined by the Legislature by



using the word 'means' or the word 'includes'. Sometimes the words 'means and includes' are used. The use of the word 'means' indicates that "definition is a hard and fast definition, and no other meaning can be assigned to the expression than is put down in definition." (See : Gough v. Gough, (1891) 2 QB 665; Punjab Land Development and Reclamation Corpn. Ltd. v. Presiding Officer, Labour Court, 1990 (3) SCC 682, at p.717. The word 'includes' when used, enlarges the meaning of the expression defined so as to comprehend not only such things as they signify according to their natural import but also those things which the clause declares that they shall include. The words 'means and includes', on the other hand, indicate "an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions." (See : Dilworth v. Commissioner of Stamps, 1899 AC 99 at pp. 105-106 (Lord Watson); Mahalakshmi Oil Mills v. State of Andhra Pradesh, 1989 (1) SCC 164, at p. 169 : (AIR 1989 SC 335 at p. 339). The use of the words 'means and includes' in R.2(b) would, therefore, suggest that the definition of "college" is intended to be exhaustive and not extensive and would cover only the educational institutions falling in the categories specified in R.2(b) and other educational institutions are not comprehended. In so far as engineering colleges are concerned, their exclusion may be for the reason that the opening and running of the private engineering colleges are controlled through the Board of Technical Education and Training and the Director of Technical Education in accordance with the directions issued by the AICTE from time to time. As noticed earlier the Grant in Aid Code contains provisions which, in many respects cover the same field as is covered by the Act and the Rules. The Director of Technical Education has been entrusted with the functions of proper implementation of those provisions. There is nothing to show that the said arrangement was not working satisfactorily so as to be replaced by the system sought to be introduced by the Act and the Rules. R.2(d), on the other hand, gives an indication that there was no intention to disturb the existing arrangement regarding private engineering colleges because in that Rule the expression "Director" is defined to mean the Director of Collegiate Education. The Director of Technical Education is not included in the said definition indicating that the institutions which are under the control of Directorate of College Education only are to be covered by the Act and the Rules and technical educational institutions in the State of Tamil Nadu which are controlled by the Director of Technical Education are not so covered. "



The Apex Court in **N.D.P. Namboodripad (Dead) by LRs. v. Union of India and others, 2007 KHC 5286** was also considering the expression “means” and “includes” and by interpreting the word “includes” held that the word “includes” can be used in interpretation clauses either generally in order to enlarge the meaning of any word or phrase occurring in the body of a Statute, or in the normal standard sense, to mean “comprises” or “consists of” or “means and includes”, depending on the context.

12. The Senior Citizens Act, 2007 have been promulgated to provide a statutory basis for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution of India and for matters connected thereto. In the Act, there are various provisions to protect the interests of the senior citizens. In the present case, the daughter-in-law is occupying a portion of the residence, *i.e.*, ground floor, on the basis of the protection granted by Ext.P6 order as per the provisions of the Domestic Violence Act, 2005. The said order was obtained at a time when the husband of the 1st petitioner was in ownership of the property. Now after the decree of the Munsiff's Court, Ottappalam in O.S.No.196 of 2023, the 2nd respondent is in ownership and possession of the property and she was earlier in possession and ownership of the property before the same was gifted to the husband of the 1st petitioner. Admittedly, the 2nd respondent has no other building or residence available, and she is entitled to reside in the



residence which is the subject matter of the case. The only impediment which prevents the 2nd respondent in residing in the said building is that the petitioners are objecting to the residence of the 2nd respondent in the said house and therefore only if an order is passed against the 1st petitioner, who is the daughter-in-law of the 2nd respondent, that the 2nd respondent would be permitted to be accommodated in the said building. Therefore, a purposive interpretation should be given to the word “children” defined under the Senior Citizens Act, 2007 especially when the definition of “children” starts with the word ‘includes’ son, daughter, etc., and therefore, a petition under the provisions of Senior Citizens Act 2007 while lie against the daughter-in-law also, who is the petitioner herein, in the light of the facts and circumstances available in the present case, where the petitioner is in possession of the property. If not, as held in **Deepika H.**’s case cited supra, the same would result in dragging a senior citizen to undergo the ordeal of regular trial under the Common Law remedies, which is time-consuming and expensive, especially when the Senior Citizens Act, 2007 itself was enacted to avoid such time consuming process and to provide a simple and inexpensive speedy remedy to help people who are in their old age. Therefore, I am of the view that the contention raised by the petitioners on the strength of the judgment in **Pramod’s** case cited supra that the proceeding before the Maintenance Tribunal as per the provisions of the Senior Citizens Act,



2007, is not maintainable, cannot be accepted in the facts and circumstances of the present case.

13. The final contention raised by the petitioners is that if the 2nd respondent is allowed to stay in the house, they will be harassed physically and mentally and that there were several instances where the 1st petitioner was attacked, resulting in registration of crimes. I am of the opinion that only given such apprehension raised by the petitioners, the 2nd respondent cannot be prevented from staying in the residential house, which is now owned by the 2nd respondent herself. Learned counsel for the 2nd respondent has undertaken that the 2nd respondent and her husband will be residing on the first floor of the building, which is provided with a separate building number and a separate stair to reach the said floor and has no intention to harass or cause any harm, physical or mental, to the 1st petitioner. The petitioners will be free to approach the concerned Court which issued Ext.P6 order if there is any instance of violation of any of the directions in the said order and that the Court is well within its power to take appropriate action for violation of the orders as provided under Section 31 of the Domestic Violence Act, 2005. Further, Section 19(f) of the Domestic Violence Act, 2005 mandates that a direction could be issued to the respondents concerned to secure a same level of alternate accommodation for the aggrieved person as enjoyed by them in the shared household or to pay rent for the same, if the circumstances so



require. So, if the 1st petitioner has a specific case that she is unable to reside in the place where she is residing on the strength of Ext.P6 interim order, then she could apprise the Court concerned about the same and seek for an order under Section 19(f) of the Domestic Violence Act, 2005 directing the respondents therein to secure same level of alternate accommodation for the aggrieved person as enjoyed by them in the shared household or to pay rent for the same. But the abovesaid apprehension raised by the 1st petitioner cannot be reason for not permitting the 2nd respondent to reside in the first floor of the residence as requested by her, especially when she has undertaken that the same will not be in violation of the directions in Ext.P6 order.

In view of the above, I find no reason to interfere with Ext.P10 order and the writ petition is accordingly dismissed.

Sd/-

**VIJU ABRAHAM
JUDGE**



APPENDIX OF WP (C) 22270/2021

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT TRIBUNAL DATED 4.7.2021.
Exhibit P2	TRUE COPY OF THE OBJECTIONS FILED BY THE PETITIONERS 4 AND 5.
Exhibit P3	TRUE COPY OF THE OBJECTIONS FILED BY THE PETITIONERS 4 AND 5.
Exhibit P4	TRUE COPY OF THE COMPLAINT PENDING IN MC 28/2021 FILED BY THE 1ST PETITIONER BEFORE THE J.F.C.M. MANNARKKAD.
Exhibit P5	TRUE COPY OF THE COMPLAINT PENDING IN CMP 549/2021 BEFORE THE J.F.C.M. MANNARKKAD.
Exhibit P6	TRUE COPY OF THE ORDER PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE, MANNARKKAD IN CMP 549/2021 IN MC 28/2021 DATED 5.3.2021.
Exhibit P7	TRUE COPY OF THE OP 216/2021 FILED BY THE 2ND RESPONDENT AND ANOTHER BEFORE THE FAMILY COURT OTTAPALAM.
Exhibit P8	TRUE COPY OF THE COMPLAINT DATED 23.8.2021 WITH RECEIPT FILED BY THE PETITIONER BEFORE THE POLICE STATION, OTTAPALAM.
Exhibit P9	TRUE COPY OF THE COMPLAINT WAS ALSO FILED BEFORE THE PROTECTION OFFICER, BY THE 1ST PETITIONER ON 7.9.2021, BY E MAIL WITHOUT ENCLOSURES.
Exhibit P10	TRUE COPY OF THE ORDER NO.K.DIS/H-2779/2021 DATED 30.9.2021 ISSUED BY THE 1ST RESPONDENT.
Exhibit P11	True copy of the FIR in Crime No. 331 of 2023 of Ottappalam Police Station dated 05.04.2023
Exhibit P12	True copy of the Crime No. 766 of 2023 of Ottappalam Police Station dated 02.08.2023
Exhibit P13	True copy of the FIR in Crime No.619 of



2024 before the Ottappalam Police Station dated 09.05.2024

Exhibit P14 True copy of the FIR in Crime No. 635 of 2024 of Ottappalam Police Station dated 09.05.2024

Exhibit P15 True copy of the Order No. R1-16644/23 by the Secretary of Ottappalam Municipality dated 11.09.2023

RESPONDENT EXHIBITS

Exhibit R2(a) True copy of the photographs of the residential building

Exhibit R2(b) True copy of the judgment in OS NO. 196/2023 of Munsiff Court, Ottappalam dated 14.2.2024

Exhibit R2(c) True copy of the decree in OS NO. 196/2023 of Munsiff Court, Ottappalam dated 14.2.2024 with english transalation of malayalam portion of the decree

Exhibit R2(d) TRUE COPY OF THE FIR NO. 0707/2023 OF OTTAPALAM POLICE STATION PALAKKAD DISTRICT REGISTERED UNDER SECTIONS 341, 323, 324 R/W 34 IPC DATED 18.07.2023