

Present: Garvin J.

SANTHANATCHY v. CHELILIAH.

760—P. C. Colombo, 9,769.

Maintenance—Raising of age limit—Amending Ordinance—Retrospective effect—Ordinance No. 2 of 1889, s. 8.

The amendment to section 8 of the Maintenance Ordinance which raises to sixteen the age limit, up to which an order for the maintenance of a child extends, applies to orders in force at the time at which the amending Ordinance came into operation.

A PPEAL from an order of the Police Magistrate of Colombo.

H. V. Perera, for appellant.

James Joseph, for respondent.

May 6, 1927. GARVIN J.—

On July 19, 1913, an order was made under the provisions of the Maintenance Ordinance, No. 2 of 1889, directing the appellant to pay a sum of Rs. 20 monthly for the maintenance of his illegitimate child. No direction was given in the order for the continuance of the payments after the date when under the law the order ceases to be of force. Section 8 of the Ordinance as it appeared in the Statute book at the date when this order was made declared that "no order for maintenance of any illegitimate child . . . shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of fourteen years . . ."

In this case the child attained the age of fourteen years on September 9, 1926.

By an amending Ordinance, No. 13 of 1925, which came into operation on October 27, 1925, the word sixteen was substituted for the word fourteen in section 8, the material part of which now reads "after the child in respect of whom it was made has attained the age of sixteen years."

The question for decision is whether the order of July 19, 1913, expired on September 9, 1926, when the child in respect of whom it was made attained the age of fourteen years, or whether it continues in force for two years longer.

In making this alteration in the law, the Legislature adopted the method of substituting the word "sixteen" for the word "fourteen" in section 8 of the existing Ordinance. Save for this and the addition of two words in the proviso to section 8, the Ordinance has not been altered.

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The effect of this substitution is to repeal the limit to the duration of the order imported by the word "fourteen" and to extend it till the illegitimate child for whose benefit it was made attains the age of sixteen.

Now by section 3 of the Ordinance a Police Magistrate is empowered to order a person to make a monthly allowance for the maintenance of his illegitimate child. Section 7 prescribes the period within which an application for maintenance of an illegitimate child should be made.

An order for maintenance is ordinarily made without any limit as to time. Section 8 gives the time of cessation, which prior to the alteration of the law was when the child attained the age of fourteen.

The limit is set by the Legislature, which has since altered the limit and declares that the force and validity of such an order shall now cease when the child for whose benefit the order was made attains the age of sixteen years.

The order under consideration was valid and in force when the amending Ordinance came into operation. How long is such an order to remain in force? The old law which declared that it shall cease to be of any force or validity when the child in respect of which it was made attains the age of fourteen has been repealed. The order is therefore still in force, and will continue in force up to the time fixed for its cessation by the amending Ordinance, *i.e.*, when the child attains the age of sixteen.

It is urged that the amending Ordinance does not affect orders made prior to that Ordinance, and that those orders must be held to cease to be of force in accordance with the law as it stood before the amendment. This is an instance of repeal by substitution. The liability to pay a monthly allowance is enforced by the order, and that order continues in force until the law says it shall cease to be of force. The provision which fixed the time for the cessation of such orders has been repealed and is no longer in existence, but the order was in force at the time of the repeal. There was therefore an order binding on the appellant without a time limit save that which is contained in the substituted provision.

The terms of the section which the Legislature has amended, and the manner in which that amendment was effected, indicates its intention to affect all orders for maintenance in force at the time. What I think the Legislature intended to do, and what it has done, is to declare generally with reference to all orders of maintenance in force at the time that they shall thereafter cease to be in force at the time specified in the amendment, and not at the time specified in the provision which it displaced.

The appeal is dismissed

Appeal dismissed.