



W.A.No.1240 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.07.2026

DELIVERED ON : 13.08.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.1240 of 2026

AND

C.M.P.No.12101 of 2026

M.Pounammal
W/o.Late Muthukrishnan
No.201, Kamaraj Salai
Pillaithottam, Puducherry 605 013

Appellant(s)

Vs

1. Vinayagam
S/o. Muthukrishnan
No.201, Kamaraj Salai
Pillaithottam, Puducherry 605 013

2.Presiding Officer-cum-The Appellate Tribunal I
under the maintenance and Welfare of Parents and
Senior Citizens Act, 2007
Puducherry District, Collectorate, Puducherry

3.The Presiding Officer
Tribunal I-cum-Sub Divisional Magistrate (North)
Tribunal for the Maintenance and Welfare of Parents
and Senior Citizen (North), Puducherry



W.A.No.1240 of 2026

4.The Tahsildar
Taluk Office, Puducherry

Respondent(s)

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 16.12.2025 passed by the learned Single Judge in W.P.No.13088 of 2024.

For Appellant(s) : Mr. C.A.Diwakar
for Mr. S.Seenuvasan

For Respondent(s) : Mr. C.Vigneswaran for R1

JUDGMENT

G.ARUL MURUGAN, J.

This intra-Court appeal calls into question the order of the writ Court dated 16.12.2025 in W.P.No.13088 of 2024, whereby the learned single Judge set aside the orders of the third respondent dated 21.09.2023 and 28.03.2024 and allowed the writ petition filed by the appellant on the ground that the very institution of the petition was flawed and without jurisdiction.

2.1. The relevant facts are that the appellant filed an application before the third respondent under Sections 5 and 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (in



W.A.No.1240 of 2026

short 'MWPSC Act'), seeking possession of the subject property. The appellant claimed that the first respondent/writ petitioner/her son was employed as a Supervisor in Auro Food Company, which job was secured by her. The first respondent is living in a portion of the subject property and had not extended any assistance either to her or to her husband.

2.2. It is stated that even though the first respondent purchased a property and constructed a two-storey residential house, he failed to vacate the subject property and continues to occupy the same. She is deprived from letting out the property for rent and, therefore, filed a complaint before the third respondent under Sections 5 and 23(1) of the MWPSC Act, seeking for eviction.

2.3. The complaint was resisted by the first respondent stating that the subject property was purchased by his father and the first respondent had contributed to the construction of the house. The appellant/mother continued to occupy the ground floor and also earns monthly rent of Rs.50,000/- from two shops. She is sufficiently placed with shelter and adequate income and the complaint filed seeking for eviction is not maintainable.

Page 3 of 20



W.A.No.1240 of 2026

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2.4. The third respondent, after adjudication, by order dated 21.09.2023, allowed the petition and passed an order directing the first respondent to vacate the premises. Appeal preferred by the first respondent before the second respondent came to be rejected on 16.02.2024 as not maintainable. The first respondent again preferred a review before the second respondent, which once again came to be rejected, holding that the review is not maintainable. The fourth respondent carried out the eviction order by vacating the premises. Assailing the eviction order passed by the second respondent on 21.09.2023 and the review order dated 28.03.2024, the first respondent preferred the writ petition.

2.5. The learned single Judge, after adverting to the provisions of the MWPSA Act, concluded that the complaint filed by the appellant seeking eviction does not fall within the purview of the MWPSA Act and, therefore, quashed the impugned order as being flawed and without jurisdiction, consequently, directed the fourth respondent to restore the possession to the first respondent within two weeks. Assailing the order of the writ Court, the appellant/mother is before this Court.



W.A.No.1240 of 2026

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3. Learned counsel appearing for the appellant argued that the MWPSC Act is a beneficial legislation and the provisions of the MWPSC Act have to be implemented by keeping in mind the welfare of the senior citizens. He further submitted that when the first respondent is well-placed in life, being an officer in a reputed company, and he had constructed a house on his own, he is not justified in holding a portion of the property belonging to the appellant/mother, a senior citizen, thereby depriving her from making revenue out of the said portion to have a decent and healthy life.

4. It is his further contention that it does not mean that simply because the appellant has a shelter, that would alone be sufficient to dignifiedly maintain her, and the appellant is always entitled to lead a better and quality life, which is also taken care of and protected by the MWPSC Act. When the authorities had rightly passed orders of eviction as per the provisions of the MWPSC Act, the learned single Judge by narrowly interpreting the provisions, erroneously concluded that there is no power under the Act for ordering eviction and, therefore, the complaint is not maintainable.



W.A.No.1240 of 2026

5. He further submitted that, when the issue has already been settled by the Hon'ble Supreme Court holding that the authorities have the power to order eviction as per the provisions of the Act, the learned single Judge had without advertng to the dictum of the Hon'ble Supreme Court, allowed the writ petition, which is arbitrary and unsustainable.

6. In support of his contentions, the learned counsel relied on the decisions of the Hon'ble Supreme Court and this Court in:

- i. S.Vanitha v. Deputy Commissioner, Bengaluru Urban District and Others [(2021) 15 SCC 730];
- ii. Urmila Dixit v. Sunil Sharan Dixit and Another [2025 (2) SCC 787];
- iii. Kamalakant Mishra v. Additional Collector and Others (2025 SCC OnLine SC 2077); and
- iv. R.Muniyammal v. The District Collector (2025 MHC 1109).

7. Contending *contra*, learned counsel appearing for the first respondent submitted that the property belongs to the first respondent's father and the first respondent has been residing in the property for more than 20 years and he has every right to be in



W.A.No.1240 of 2026

occupation of the property. He further submitted that the appellant is residing in the subject property in the ground floor and has let out two shops and earning a monthly rent of Rs.50,000/- and, therefore, she is comfortably settled and having sufficient income, leading a quality life, and the complaint seeking to evict the first respondent is only at the behest of the other legal heirs.

8. Learned counsel further submitted that, the decisions of the Hon'ble Supreme Court in *S.Vanitha, Urmila Dixit (supra)* were rendered in a situation, where when a document assailed is set aside, the Court held that the authorities incidentally would be vested with power to restore possession. It cannot be stretched to such an extent that mere complaint for eviction without filing a proper suit which is the only remedy, could be maintained under the provisions of the MWPSC Act.

9. In support of his contention, learned counsel relied on a decision of the Hon'ble Supreme Court in *Samtola Devi vs. State of U.P. (2025 SCC OnLine SC 669)* and submitted that there is no provision to file a complaint simply to evict a legal heir and the learned single Judge has rightly allowed the writ petition.

Page 7 of 20



W.A.No.1240 of 2026

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10. We gave our anxious consideration to the submissions made on either side and considered the materials available on record.

11. The MWPSC Act was promulgated to provide more effective provisions for the maintenance of parents and senior citizens by setting up appropriate mechanisms to provide neat, best maintenance, better medical facilities, and institutionalisation of a suitable mechanism for protection of life and liberty of elderly persons. As per Section 4 of the MWPSC Act, 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. Section 5 of the MWPSC Act allows a senior citizen to file an application seeking maintenance and after inquiry by the competent authority as per the provisions, order of maintenance could be passed under Section 9 of the MWPSC Act, by directing payment of monthly maintenance.

12. The Tribunal, considering the claim, may order payment of maintenance, which shall not exceed Rs.10,000/- per month. Section 11 of the MWPSC Act provides for enforcement of the order of maintenance and Section 16 provides for appeal. There is no specific

Page 8 of 20



W.A.No.1240 of 2026

provision under the MWPSA Act empowering the authority to pass an order for eviction. However, the Hon'ble Supreme Court in the case of *S.Vanitha (supra)* held that the Tribunal under the MWPSA Act may also order eviction, if it is needed and expedient to ensure the protection of senior citizens. The relevant portion of the decision is reproduced below:

*"25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a "right to receive maintenance out of an estate" and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. **The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only***



after adverting to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner.”

(emphasis supplied)



W.A.No.1240 of 2026

13. Again, the Hon'ble Supreme Court in the case of *Urmila Dixit (supra)* held that the Tribunal while exercising jurisdiction under Section 23 of the MWPSC Act may order eviction, if it is necessary and expedient to ensure protection of senior citizen. Therefore, by the aforesaid decisions of the Hon'ble Supreme Court, the Tribunals were incidentally vested with jurisdiction to pass orders on eviction while exercising power under Section 23 of the MWPSC Act. The following is the relevant extract from the judgment:

"24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the competency of the Tribunal to hand over possession of the property. In S. Vanitha [S. Vanitha v. Commr., (2021) 15 SCC 730], this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly."

14. In the instant case, the appellant/mother of the first respondent, filed a complaint on 03.04.2020 under the MWPSC Act



W.A.No.1240 of 2026

seeking for eviction of the first respondent from the subject property.

The complaint preferred by the appellant reads as under:

"Subject: Application for recovery of property belonging to me from my eldest son.

I am residing at the above address and I and my husband Muthukrishnan have three sons namely Mr. M. Vinayagam, Mr. Ravichandran and Mr. Kamaraj and four daughters namely Mrs. Kuppammal, Mrs. Rajalakshmi, Mrs. Thillaiyammal and Mrs. Shanthi. Everyone is married and settled. My elder son Mr. Vinayagam retired from Pulichappallam Aurofood Company and is currently working in a private company. He is occupying two parts of the house at the above address belonging to me and has left me unattended and is living in Mutrapalayam by building his own house. I am suffering from all kinds of ailments that can occur due to old age. On the one hand, he is not doing my required supports and on the other hand, he is occupying my house and not letting me live in that house.

I have been paying all the electricity, water and house tax for the said house from the old age allowance provided by the Pondicherry government. My other son Ravichandran lives alone in Velrampat but he often takes me to the doctor and provides medical assistance. My son Ravichandran is taking care of me, even though he is in a difficult situation. The whereabouts of another son, Kamaraj, are unknown. But my elder son has neglected me and is occupying my property and asking me to



W.A.No.1240 of 2026

pay for it. Six years ago I asked him to vacate my house. During the argument, not only my son and daughter-in-law but also her family gathered and tried to attack me. As my teeth were broken in it, I reported it to Urulayanpet police station.

Based on that, the police inspector called my elder son and asked him to vacate the house and hand it over to me. He did not respect it and did not take it seriously. Also as per my husband's advice I registered a case Seashore Road). They also in Free Family Court (Kadakarai Road called my elder son and consulted him. Even more so, my husband and I were stunned, not knowing what to do. My husband died as a result of mental exertion. And I am suffering and crying, not understanding what will happen to my situation. Therefore, I humbly request you to call my eldest son Mr. Vinayakam and inquire and do the needful to return the house belonging to me."

15. A bare perusal of the complaint reveals that the complaint is not filed seeking any maintenance under Section 5 of the MWPSC Act or seeking any relief under Section 23 of the MWPSC Act. The complaint simpliciter seeks an order of eviction to evict the first respondent from the subject property. The third respondent who adjudicated the complaint by order dated 21.09.2023 passed the orders for eviction. The appeal to the second respondent and the subsequent review to the third respondent came to be dismissed as

Page 13 of 20



W.A.No.1240 of 2026

not maintainable and rejected by orders dated 16.02.2024 and 28.03.2024, respectively, which were set aside by the writ Court on the ground of want of jurisdiction.

16. It is true that the MWPSA Act is a beneficial piece of legislation intended to secure the rights and welfare of the parents and senior citizens. The sufferings and sorry state of affairs of the parents who are neglected and ignored by their own loved ones at the old age was sought to be remedied by providing adequate security and devising a mechanism to ensure their safety, security and better living. It is well settled that the provisions of the MWPSA Act are to be broadly interpreted to ensure that its underlying purpose is ultimately achieved.

17. Keeping the above parameters in mind, the Hon'ble Supreme Court, while considering the jurisdiction of the authorities under Section 23 of the MWPSA Act in the case of *S.Vanitha and Urmila Dixit (supra)* held that the Tribunal under Section 23 of the MWPSA Act would be vested with jurisdiction to pass orders of eviction to ensure that the intention of the legislation and the safety and security of the senior citizens are ultimately protected.

Page 14 of 20



W.A.No.1240 of 2026

18. However, if a question is posed as to whether the provisions could be stretched to such an extent that instead of resorting to seek remedy as available under ordinary civil laws, could the provisions of the MWPSA Act be invoked to resolve all civil disputes, in our opinion, the answer has to be in the negative. When a complaint is filed seeking remedy under Section 23 of the MWPSA Act, to set aside a document as null and void, subject to the conditions contained therein and when the document is set aside, the complainant, particularly, the parents and senior citizens, cannot be left unprotected and in such circumstances, as held by the Hon'ble Supreme Court, authorities would have jurisdiction to order eviction, repossession of the property in favour of the parents and senior citizens.

19. As referred to above, the complaint filed in the present case is not seeking any relief of maintenance under Section 5 or to set aside any document claiming relief under Section 23 of the MWPSA Act. But the complaint is simpliciter for a relief of eviction. The first respondent is the son residing in a portion of the premises which was constructed by his father at least 20 years ago. It is not in dispute that the appellant/mother is residing in the ground floor and at least two shops are let out for a monthly rent of Rs.50,000/-. Even when the

Page 15 of 20



W.A.No.1240 of 2026

appellant/mother is residing in a separate house and is also receiving rental income, it is still open to her to seek eviction of her own son, the first respondent from the portion occupied by him, of course, by knocking the doors of the civil Court, and the provisions of the MWPSC Act cannot be availed to file a complaint before the authorities seeking the mere relief of eviction without even seeking maintenance. This very fact reveals that the appellant is not in need of maintenance.

20. In this regard, it would be relevant to refer to the decision of the Hon'ble Supreme Court in *Samtola Devi (supra)* on which reliance is placed by the first respondent, wherein after referring to the decisions in *S.Vanitha* and *Urmila Dixit (supra)*, it was held that the Tribunal was not justified in ordering eviction merely because the property belongs to a senior citizen. The Court observed that while the Tribunal has jurisdiction to pass eviction orders when exercising authority under Section 23 of the MWPSC Act, which otherwise provides for treating a property transfer as void, if it is against the interests of senior citizens, the authority had ignored the fact that the respondent therein was entitled to a share and the purpose could instead be served by ordering maintenance. The relevant portion from the decision in *Samtola Devi (supra)* reads as under:

Page 16 of 20



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"31. The provisions of the Senior Citizens Act, nowhere specifically provides for drawing proceedings for eviction of persons from any premises owned or belonging to such a senior person. It is only on account of the observations made by this Court in *S. Vanitha v. Commissioner, Bengaluru Urban District* [(2021) 15 SCC 730] that the Tribunal under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. The Tribunal thus had acquired jurisdiction to pass orders of eviction while exercising jurisdiction under Section 23 of the Senior Citizen Act which otherwise provide for treating the sale of the property to be void if it is against the interest of the senior citizen.

32. The aforesaid decision was followed by this Court in *Urmila Dixit (supra)*. However, even in the aforesaid case the court has only held that in a given case, the Tribunal "may order" eviction but it is not necessary and mandatory to pass an order of eviction in every case. The Appellate Tribunal has not recorded any reason necessitating the eviction of Krishna Kumar or that in the facts and circumstances of the case, it is expedient to order eviction so as to ensure the protection of the senior citizen.

33. In our opinion, the Appellate Tribunal was, therefore, not justified in ordering for his eviction merely for the reason that the property belongs to Kallu Mal, completely ignoring the fact that the claim of Krishna Kumar regarding 1/6th share and the



W.A.No.1240 of 2026

cancellation of gifts and sale deeds is pending adjudication before the civil court.

34. In our opinion, in the facts and circumstances of the case, there was no necessity for the extreme step for ordering the eviction of Krishna Kumar from a portion of the house rather the purpose could have been served by ordering maintenance as provided under Section 4/5 of the Senior Citizens Act and by restraining him from harassing the parents and interfering in their day-to-day life.

35. In the light of the above situation, the High Court appears to be well within its jurisdiction to set aside the eviction order passed by the Tribunal and to maintain the other conditions imposed by the Tribunal.”

21. In view of the aforesaid decisions and considering both the provisions of the MWPSA Act and the complaint filed by the appellant, a complaint filed for mere eviction without seeking for any maintenance is not maintainable. Consequently, the authorities exceeded their jurisdiction in ordering eviction. The learned single Judge rightly considered the provisions of the MWPSA Act, set aside the impugned orders and allowed the writ petition, directing the restoration of possession.



W.A.No.1240 of 2026

22. We see no error or infirmity in the findings of the writ Court warranting interference. Accordingly, the writ appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
13.08.2026

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W.A.No.1240 of 2026

THE HON'BLE CHIEF JUSTICE
AND
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To

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Pre-Delivery Judgment in
W.A.No.1240 of 2026

13.08.2026

Page 20 of 20