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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.32887 of 2024
and WMP.No.35712 of 2024

Mr.B.Krishnamoorthy Petitioner(s)

Vs.

1.The District Collector
The Appellate Tribunal,
Maintenance and Welfare of Parents and
Senior Citizens Act, Salem.

2.The Revenue Divisional Officer / Tribunal
Maintenance and Welfare of Parents and
Senior Citizens Act,
15 Sankagiri-Tiruchengode Road
R.D.O. Office, Sankagiri,
Salem District 637301.

3.Senthilkumar

4.Mr.Karthikeyan Respondent(s)

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, by setting aside the orders passed by the 2nd respondent dated 30.06.2022 as well as the order passed by the 1st

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respondent in his proceedings Na.Ka.No.117023/2022/C4 dated 25.07.2024 along with consequential direction to the 3rd respondent herein to put the petitioner in vacant possession of his house situated at D.No.1/173-2 East side of R.K.Thirumanamandapam, Koodalur Village, Magudanchavadi Post, Sankari Taluk-637103 Salem District.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.M.Sivavarthanan for R1 & R2
Government Counsel
Ms.K.Sridevi for R3

ORDER

The petitioner has challenged the order dated 30.06.2022 passed by the second respondent and the order dated 25.07.2024 passed by the first respondent, by which his application under Sections 22 and 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking eviction of respondents 3 and 4 from the subject property, was rejected.

2. The petitioner is a retired Sub-Inspector of Police who retired on 31.07.2008 and is receiving pension. He claims that he constructed the house bearing Door No.1/173-2, East Side of R.K. Thirumana Mandapam, Koodalur

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Village, Magudanchavadi Post, Sankari Taluk, Salem District, from his own funds.

3. According to the petitioner, he had locked the house on 22.08.2019. Taking advantage of his absence, respondents 3 and 4 allegedly broke open the lock, entered the house and occupied it. Despite his request to vacate, they refused to do so and allegedly threatened him. He therefore sought their eviction under the provisions of the Act.

4. The second respondent, after conducting an enquiry, rejected the application on the ground that the dispute was essentially a civil dispute relating to possession of property and did not fall within the scope of the Act. The appeal filed by the petitioner under Section 16 of the Act was also dismissed by the first respondent, confirming the order of the second respondent.

5. Heard the learned counsel appearing on either side.

6. The records show that the petitioner and his first wife had separated and their marriage was dissolved in the year 2004. His first wife subsequently passed away. Thereafter, the petitioner contracted a second marriage, which was

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also dissolved. It is further stated that he has since contracted a third marriage and is presently residing with his third wife.

7. The petitioner relied upon the decision of the Hon'ble Supreme Court in ***Kamalakant Mishra v. Additional Collector & Others (2025 LiveLaw (SC) 947),*** wherein it was held that the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, being a welfare legislation, should receive a liberal interpretation and that the Tribunal has the power to order eviction of children or relatives who fail to maintain a senior citizen.

8. However, in the present case, the petitioner has not alleged that respondents 3 and 4 neglected or refused to maintain him. His grievance is only that they have illegally occupied his house.

9. The third respondent has filed an undertaking affidavit stating that, in order to maintain peace and harmony in the family, he has no objection to the petitioner, who is his father, residing in the house. However, he has objected to the petitioner residing there along with his third wife.

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10. Though the petitioner contends that he is entitled to reside in the house along with his third wife, it is relevant to note that the application filed before the authorities contains no pleading regarding his third marriage or any claim for residence along with his third wife. The only relief sought was eviction of respondents 3 and 4.

11. In the absence of any allegation that respondents 3 and 4 failed to maintain the petitioner or neglected their obligations under the Act, the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act cannot be invoked. The dispute is essentially one relating to possession and title to property, for which the appropriate remedy is before the competent civil forum.

12. In view of the undertaking given by the third respondent, this writ petition is disposed of without interfering with the impugned orders. The third respondent shall permit the petitioner to reside in the subject property.

13. It is open to the petitioner to initiate appropriate proceedings, in accordance with law, for eviction of respondents 3 and 4 from the property. If the undertaking given by the third respondent is not honoured and the petitioner

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is denied residence in the house, it is open to the petitioner to approach the competent authority for implementation of this order in accordance with law. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

21.07.2026

Index : Yes/No
Speaking order : Yes/No
dna

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