

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.10381 of 2016
and WMP.No.9163 of 2016

A.Siluvaidoss

... Petitioner

vs.

1. The District Collector
Kancheepuram District,
Kancheepuram.

2. Antony Charles

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the first respondent to consider and pass orders on the petitioner's representation, dated 15.02.2016 in accordance with the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.S.Navaneethan,
Additional Government Pleader

O R D E R

The writ petition has been filed under Article 226 of the Constitution of India, seeking an order in the nature of writ of mandamus, directing the first respondent to consider and pass orders on the petitioner's representation, dated 15.02.2016 in accordance with the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. The petitioner has averred in his affidavit that he is a senior citizen and as such entitled to benefits enshrined under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 56 of 2007 and the Rules made there under. Section 2(h) defines that any person being citizen of India, who has attained the age of sixty years or above is Senior Citizen and according to the petitioner, he is 71 years old. Section 2 (d) defines that parent means father or mother, whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a Senior Citizen. Therefore, according to the petitioner, being father of

the second respondent, he is also entitled to get the benefits of the Act and entitled to approach the authorities concerned to enforce the provisions of the Act.

3. The petitioner purchased a house site measuring 2400 sq.ft, comprised in Survey No.381/9 of Adhanoor village, Sriperumpudur Taluk, Kancheepuram District from A.K.Srivatsan, s/o A.B.Kesavan under a sale deed, dated 05.07.2001 registered as Document No.2804 of 2001 on the file of the Office of the Sub-Registrar, Guduvancherry. The said property was purchased by the petitioner out of the sale proceeds of his house at Choolaimedu, Chennai. The petitioner further submits that he constructed a house over the said property by keeping half of the portion idle for future purpose. During the year 2004, the petitioner sold 1200 sq.ft of vacant land out of 2400 sq.ft of land. Initially the petitioner started a STD Booth and out of the income derived from the said business, the petitioner lead his life. The said shop was removed by the Highways authorities. Thereafter, the petitioner has no other business, except to depend upon only on his son. The elder daughter of the petitioner was with the petitioner due to matrimonial dispute with her husband and all other three daughters are living along with their family. According to the petitioner, after the marriage of his son, he started to live in the upstairs along with his wife and elder daughter. But all documents and other credentials of the petitioner were kept in the ground floor, which was under possession of his son.

4. To the shock and surprise of the petitioner, one day his son brought the petitioner to an advocate office along with his wife and asked him to sign a document, duly printed, which is nothing but a settlement deed. The petitioner refused to sign the said document and requested the advocate to rewrite the document with clause containing life interest cover to his wife. But all of them pacified the petitioner and due to compelling circumstances, the petitioner signed the document, reposing faith on his son. But thereafter, the second respondent started to harass the petitioner, his wife and elder daughter and due to which, his elder daughter has shifted to a home / ashram in Tirunelveli Town. Hence, the petitioner has preferred a complaint on 25.01.2016 before the Superintendent of Police and when they enquired his son, he has promised that he will not disturb the possession of the petitioner and his wife and due to which, the said complaint was closed.

5. The petitioner further submits that his son and his father-in-law are trying to sell the house of the petitioner. Therefore, the petitioner has submitted a detailed representation to the first respondent on 15.02.2016, seeking protection to his life in his house and seeks to declare the settlement deed as void, in view of the specific provisions

contained in Section 23 of the said Act. The said representation was duly served with the first respondent, but for the reasons best known to the him, no action has been taken so far. Hence, the petitioner has come forward with the present writ petition, seeking for the relief as stated supra.

6. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

7. Considering the facts and circumstances and after hearing the submissions of both sides, I am of the opinion, the request of the petitioner to declare the settlement deed as void cannot be considered by the first respondent, for which the petitioner has to look out his remedy only before the Civil Court. However, since there are other allegations to the effect that the petitioner's son is harassing him, I am of the opinion it would be appropriate to direct the first respondent to dispose the representation of the petitioner. Accordingly, without going into the merits of the case of the petitioner, this Court directs the first respondent to dispose the said representation of the petitioner, dated 15.02.2016, by affording opportunity of personal hearing to the petitioner as well as to his son and in accordance with the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 56 of 2007, within a period of eight weeks from the date of receipt of a copy of this order. It is also made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petitioner and it is open to the first respondent to decide the issue purely on merits and in accordance with law.

8. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

WEB COPY

Sub-Assistant Registrar

tsvn

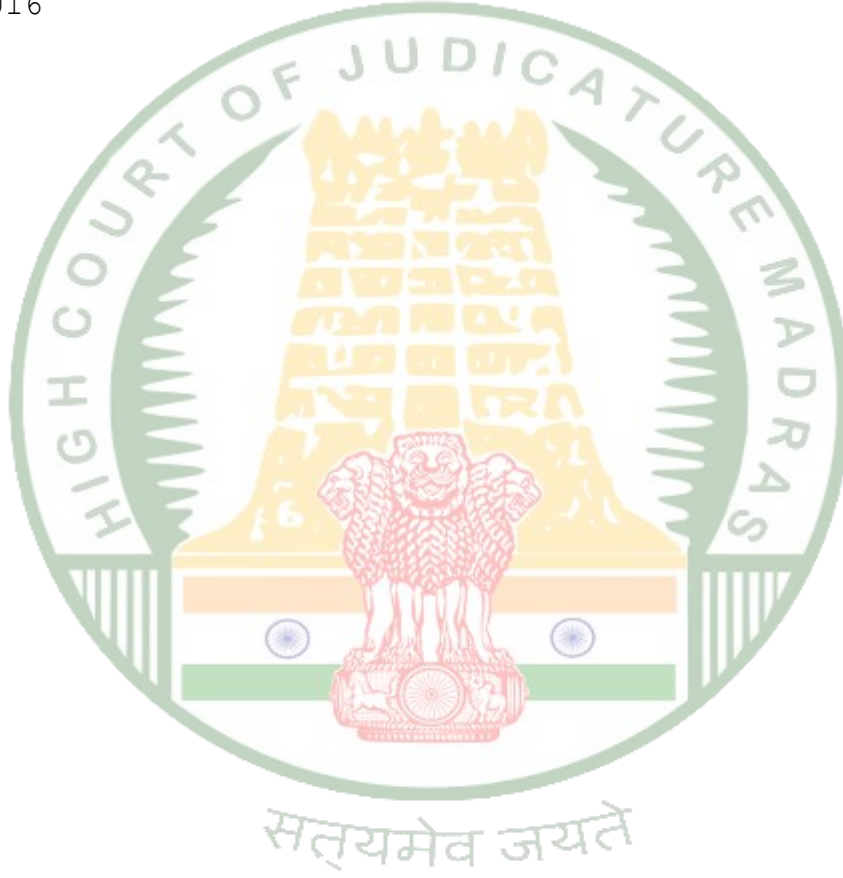
To

The District Collector
Kancheepuram District,
Kancheepuram.

+1 cc to Mr.S.Thirumavalavan Advocate sr.17729

W.P.No.10381 of 2016

aa06/04/2016



WEB COPY