

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.04.2016

Date of Verdict : 25.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.7801 of 2014

Mr.N.Balathandapani

... Petitioner

Vs.

1. District Social Welfare Officer/  
Appellate Tribunal,  
District Collector, District Collector Campus,  
Coimbatore-641 018.
  2. Tribunal Officer & Revenue Divisional Officer,  
Coimbatore.
  3. B.Velmurugan
  4. Surya Prabha
- .... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, to call for the records relating to the orders made in Appeal No.1/2013 dated 18.2.2014 passed by the 1st respondent in Order No.Moo.Mu.6455/2012/A1 dated 23.01.2013 passed by the 2nd respondent, quash the same and consequently direct the 1st respondent to initiate the action against 3rd and 4th respondents and to protect the petitioner's property from the hands of 3rd and 4th respondents.

For Petitioner : Mr.S.Veeraraghavan

For Respondents: : Mr.V.Jayaprakash Narayanan  
Special Government Pleader  
for R1 & R2  
Mr.C.D.Sugumar for R3 & R4

## ORDER

The petitioner has filed the present writ petition, praying for the issuance of a writ of Certiorarified mandamus, to call for the records relating to the orders made in Appeal No.1/2013 dated 18.2.2014 passed by the 1st respondent in Order No.Moo.Mu.6455/2012/A1 dated 23.01.2013 passed by the 2nd respondent, quash the same and consequently direct the 1st respondent to initiate the action against 3rd and 4th respondents and to protect the petitioner's property from the hands of 3rd and 4th respondents.

2. According to the petitioner, he is the absolute owner of the property situated at D.No.3/C, 106-A, Cheran Nagar, Mettpulayam Road, Coimbatore-641 029 having purchased the same for a valid consideration of Rs.2,17,000/- from one Mr.K.M.Jagadeesan by a sale deed dated 02.01.1996. His native town is Coimbatore, however, at present he is residing in Chennai along with his wife, who retired as a teacher, in a rented house for Rs.6000/- even though he has his own house which he purchased from his hard earned money. He has a son, namely, B.Velmurugan, the third respondent herein and his daughter-in-law, the fourth respondent herein. After purchase of the above said property, the 3rd and 4th respondents were permitted to reside over there with a condition that as and when the petitioner demands the possession, they should hand over the same to the petitioner. In the year 2006, after the retirement of his wife, the petitioner decided to reside in his native place and accordingly, he demanded the 3rd and 4th respondents to hand over possession by vacating the premises. But they behaved in a rude manner and driven out the petitioner and his wife from the home forcibly and threatened them with dire consequences, which made them to take a room in a hotel for their stay and as they are not having any other shelter, they are forced to live in a rental house by paying high rent from their meagre income. Though they filed several complaints before the concerned police, but no action was taken. While so, the respondents 3 and 4 have filed civil suits against the petitioner for permanent injunction, restraining them from interfering with subject property and for partition. The petitioner also filed a suit for ejectment against the respondents 3 and 4. Later, the petitioner filed a petition before the first respondent, seeking maintenance under Rule 5 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, which was forwarded to the second respondent, who in turn issued the proceedings, dated 23.2.2013, in and by which, the petitioner and his wife were ordered to stay in one of the house as there are civil court proceedings

pending. Since the second respondent cannot pass orders regarding the title of the property, aggrieved by the proceedings of the second respondent, dated 23.2.2013, the petitioner has preferred an appeal before the first respondent, who passed the impugned order, dated 18.2.2014, stating that the petitioner should not claim any legal right over the property. Aggrieved by the same, the petitioner has come forward with the present writ petition.

3. Though notices were served and the names of the respondents were printed in the cause list, there was no representation on their behalf.

4. It is the specific case of the petitioner that from and out of his hard earned money, he purchased the subject property, i.e. house situated at D.No.3/C, 106-A, Cheran Nagar, Mettupalayam Road, Coimbatore-29 by way of registered sale deed dated 2.1.1996 and he allowed the respondents 3 and 4 who are none other than his son and daughter-in-law to reside therein until they require it and during the year 2006, when the petitioner demanded to hand over the vacant possession, the respondents 3 and 4 had not obliged, but misbehaved with him and refused to hand over the possession, which prompted the petitioner to approach the authority, seeking maintenance under Rule 5 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, by proceedings, dated 23.2.2013, the second respondent ordered the petitioner to stay in one portion of the house and in the appeal, the first respondent, by the impugned order, dated 18.2.2014, has held that the petitioner should not claim any legal right over the property.

5. The main contention of the petitioner is that the first respondent has no authority to pass the impugned order, holding that the petitioner cannot claim any right over the property, which, according to the petitioner, is his self-acquired property. It is also contended that the first respondent has not appreciated the fact that the property stands in the name of the petitioner. As could be seen from the impugned order, I find that the first respondent has passed the order based on the complaint made by the petitioner, wherein, it is stated that the subject property has two portions and the petitioner herein can reside in one portion and his son and daughter-in-law can reside in another portion and the third respondent should not harass the petitioner and similarly, the petitioner should not claim right over the property and also should not pressurize the third respondent to vacate the premises. It is not in dispute that there are civil suits pending relating to the subject property before the civil Courts. However, it is to be noted that it is the specific case of the petitioner that he is the absolute

owner of the property, having purchased the same by way of a sale deed, dated 2.1.1996 and he only allowed the respondents 3 and 4 to reside therein, with a condition that they should hand over the possession as and when he requires the premises. When that being so, a perusal of the impugned order reveals that before passing the said order, the first respondent has not taken into account the document, i.e. sale deed produced by the petitioner. However, keeping in view of the fact that the civil suits are pending, the first respondent has ordered the parties to reside in respective portions. In my opinion, the impugned order requires no interference, however, as regards the observation made by the first respondent that 'the petitioner should not claim any right over the property and demand to vacate the premises', in my opinion, cannot be sustained and the same is liable to be set aside.

Accordingly, while confirming the order, dated 18.2.2014 passed by the first respondent, the observation made by the first respondent therein to the effect that "the petitioner should not claim any right over the property and demand to vacate the premises" is hereby set aside. The Writ Petition is disposed of with the above observation. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

suk

To

1. The District Social Welfare Officer/  
Appellate Tribunal,  
District Collector, District Collector Campus,  
Coimbatore-641 018.
2. The Tribunal Officer & Revenue Divisional Officer,  
Coimbatore.

+1cc to Mr.S.Veeraraghavan, Advocate, S.R.No.25547

W.P.No.7801 of 2014

PVS(CO)  
CA(17/05/2016)