

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4179 of 2016

S.Neelakandan

... Petitioner

Vs.

1. The District Collector/Appellate Tribunal  
constituted under the provisions of  
Maintenance and Welfare of Parents and  
Senior Citizens Act, 2007,  
Kancheepuram Collectorate, Kancheepuram.

2. N.Kamal

3. N.Manikandan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the first respondent to seize the appeal, dated 22.06.2015 preferred by the petitioner herein under Section 16(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and received by the first respondent on 24.06.2015 and dispose of the same at an early date.

For Petitioner :Mr.Mohd. Nazurullah

For Respondents:Mr.V.Jayaprakash Narayanan, Spl.G.P. for R-1

ORDER

The Writ Petition is filed for issuance of a Writ of Mandamus to direct the first respondent to seize the appeal, dated 22.06.2015 preferred by the petitioner herein under Section 16(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and received by the first respondent on 24.06.2015 and dispose of the same at an early date.

2. It is the case of the petitioner that while he was in service in Metropolitan Transport Corporation, he purchased a house-site at Palanthandalam Village in 1986 and constructed a house thereon bearing Door No.02/22, Main Road, Palanthandalam, Thirumudivakkam Post, via Chromepet, Chennai-600 044. After getting divorce from his first wife-Tharani, he married one Mallika and continued to live with her in the said house. His

first wife was living with respondents 2 and 3 and the petitioner had been paying maintenance to her till date as per the Order of the Court in divorce proceedings. At the instigation of respondents 2 and 3, the petitioner's first wife started to give trouble to the petitioner and they went to the extent of assaulting the petitioner's second wife and caused damages to the windows and water pipe of the petitioner's house and similar mischief was meted out by them with the active support of local politician. It is the further case of the petitioner that on 10.10.2010, when himself and his second wife were away from the house, the respondents 2 and 3, at the instigation of his first wife and with the support of the local politician, broke open the petitioner's house and started residing there. The petitioner made a call to the Police Control Room and informed them about the above said trespass committed by the respondents 2 and 3, subsequent to which, as per the instructions of the Sub-Inspector of Police, the petitioner filed a complaint on 11.10.2010 to the Kundrathur Police Station, in which, no action was taken by the Police. In spite of the petitioner's representations to various higher authorities and also to the State Human Rights Commission, only after obtaining a direction from this Court in Crl.O.P.No.22103 of 2011 on 21.09.2011, the Police filed a final report against the respondents 2 and 3 for the offences under Sections 294(b), 448, 427 and 506 (ii) IPC and subsequently, in C.C.No.16 of 2012 on the file of the Judicial Magistrate's Court at Sriperumbudur, they were found guilty of the charges framed against them and were convicted on 21.04.2014 and the respondents 2 and 3 were imposed only minor punishment of payment of fine. Even then, the respondents 2 and 3 did not restore the possession to the petitioner. Hence, the petitioner preferred application before the Revenue Divisional Officer, Kancheepuram, to direct the respondents 2 and 3 for restoration of possession of the petitioner's house and the said application was rejected on 10.06.2015, against which, the petitioner has preferred appeal, dated 22.06.2015 before the first respondent. In spite of sending legal notice and various representations, the first respondent has not disposed of the said appeal. Hence, the petitioner has filed this Writ Petition for the above relief.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who took notice for the first respondent.

4. Considering the limited scope of the prayer made in this Writ Petition, without going into the merits of the case, this Writ Petition is disposed of, with a direction to the first respondent to consider the said appeal, dated 22.06.2015 preferred by the petitioner, and after giving an opportunity of hearing to the petitioner and necessary parties including the respondents 2 and 3, dispose of the said appeal, on merits and in

accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-  
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

cs

To

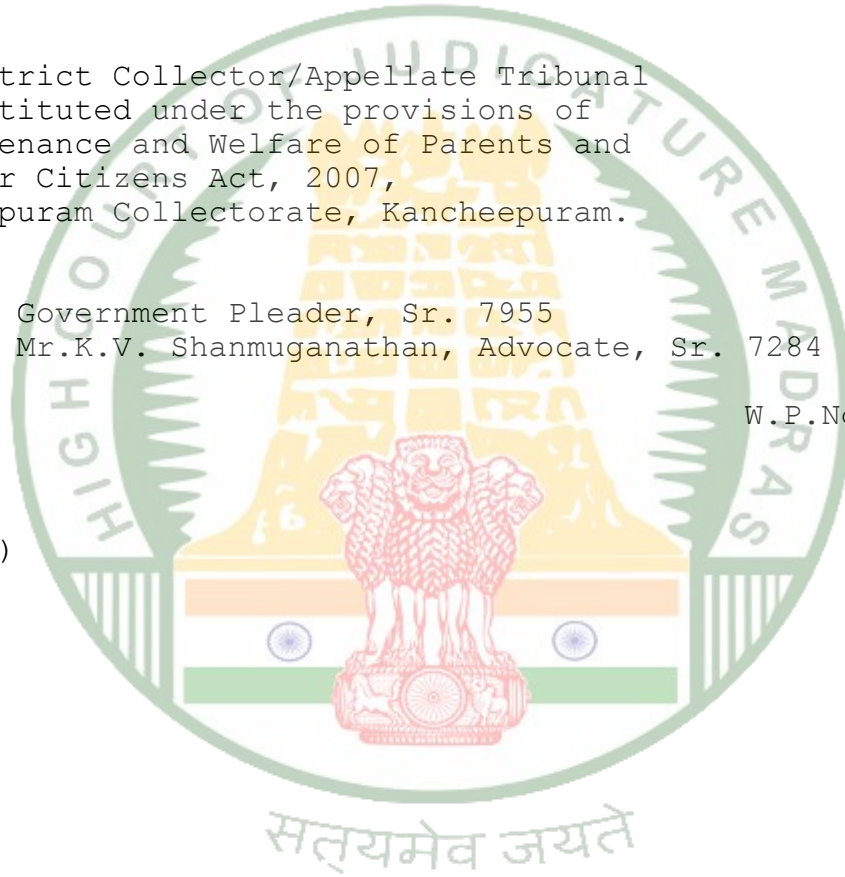
The District Collector/Appellate Tribunal  
constituted under the provisions of  
Maintenance and Welfare of Parents and  
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Kancheepuram Collectorate, Kancheepuram.

1 cc to Government Pleader, Sr. 7955

1 cc to Mr.K.V. Shanmuganathan, Advocate, Sr. 7284

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KGK (CO)  
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