

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6453 of 2016

Tmt.Pattammal

.. Petitioner

Vs.

1. The Revenue Divisional Officer,
Mettur Taluk, Salem District.

2. Thiru.Sathyaseelan

3. Tmt.Vijayakumari

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's representation, dated 05.02.2016 and thereby direct the first respondent to take suitable action against the respondents 2 and 3 under Rule 21 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.S.Pattabiraman,
Govt. Advocate for R-1

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to consider the petitioner's representation, dated 05.02.2016 and thereby direct the first respondent to take suitable action against the respondents 2 and 3 under Rule 21 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

2. The petitioner, aged about 84 years, is residing along with her younger son Thiru.Rajasekaran and his family members and her husband Saminathan died on 21.03.2009. After his demise, the petitioner is depending upon the monthly pension of her husband for her survival. From and out of the pension income, the petitioner is supporting her elder son (second respondent herein), who is looking after some of their agricultural lands,

plantation of crops, etc. It is the grievance of the petitioner that the second respondent and his wife, the third respondent, are interested only in receiving the monthly pensionary benefits of the petitioner's late husband and they are not taking care of the petitioner and also subjecting the petitioner to cruelty and harassment. The second respondent is evading to submit the accounts regarding income earned through selling of crops. When the petitioner narrated the above fact to her younger son Rajasekaran when he visited to see the petitioner, the younger son also questioned his brother (second respondent) and his wife (third respondent) about the cruelty committed to the petitioner. The respondents 2 and 3 threatened the petitioner and her younger son. Hence, the younger son Rajasekaran lodged a complaint on 19.11.2015 to the Inspector of Police, Omalur Police Station, and the said complaint was acknowledged in C.S.R.No.529/2015 on 20.11.2015. Subsequently, the petitioner is residing with her younger son. The elder son drove the petitioner out of home by grabbing her jewels, pension passbook and a portion of land left by the petitioner's husband for her survival. The petitioner's younger son and his family are residing in rental house and due to unemployment, the younger son is struggling to take care of the petitioner. When the petitioner approached her elder son on 28.12.2015 and demanded to return back the pension passbook, jewels and landed property, the same was refused by him and he scolded the petitioner and threatened her. In this regard, the petitioner lodged a complaint to the Inspector of Police, Omalur Police Station on 29.12.2015, on which, no action was taken by them, inspite of several requests to take action on the complaint of the petitioner. Hence, the petitioner filed CrI.O.P.No.1307 of 2016 to direct the respondent-Police to register the petitioner's complaint, dated 29.12.2015 and this Court directed the petitioner to approach the first respondent by invoking the provisions of Rule 21 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 and hence, the petitioner has withdrawn the said CrI.O.P. on 22.01.2016. Subsequently, the petitioner gave a representation, dated 05.02.2016 to the first respondent to take action against the respondents 2 and 3 as per the provisions of Rule 21 of the said Rules and to get back the property, jewels and pension passbook from the second and third respondents. Since no action was taken on the representation, dated 05.02.2016, the petitioner has preferred this Writ Petition for the above relief.

3. In view of the order that is going to be passed, there is no need to issue notice to respondents 2 and 3.

4. Heard both sides.

5. It is seen from the typed set of papers filed along with the Writ Petition, that the representation, dated 05.02.2016 is

addressed to the Sub-Collector, Mettur, Salem District. Hence, taking into consideration the facts and circumstances of the case, the petitioner is directed to submit a copy of the said representation, dated 05.02.2016 to the first respondent, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such a copy of the said representation and the copy of the order of this Court, the first respondent is directed to consider the said representation, dated 05.02.2016 of the petitioner and dispose of the said representation, on merits and in accordance with law, after giving an opportunity of personal hearing to the petitioner and necessary parties, including the second and third respondents herein. The first respondent is also directed to pass necessary orders within a period of six weeks thereafter. However, it is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the first respondent to decide the same purely on merits.

6. With the above observations and directions, the Writ Petition is disposed of. No costs.
cs

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

Copy to

The Revenue Divisional Officer,
Mettur Taluk, Salem District.

+ 1 cc to Mr.Muralidaran, Advocate, SR 11506

+ 1 cc to Govt.Pleader, High Court, Madras SR 11740

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