



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD)No.752 of 2014

and

M.P.(MD)No.1 of 2014

D.Selvakumar

...Appellant/Petitioner

Vs.

1.The Sub Divisional Magistrate cum
Revenue Divisional Officer, Thanjavur.

2.D.Devasena

3.Ananthakumar

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letter Patent, against the order passed by this Court made in W.P.(MD)No.9730 of 2013 dated 10.04.2014.

Prayer in WP(MD) . 9730/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the impugned maintenance order proceedings in Na.Ka.No. 187/2012/Aa1 dated 25/04/2013, passed by the 1st respondent and quash the same as per se illegal, arbitrary and against the natural justice and equity and consequently direct the 1st respondent to conduct a fair trial on 2nd respondent complaint No. 187/2012 by offering equal opportunity by serving complaint copy with enclosures to the petitioner to put forth his defence and further to direct the tribunal to conduct the enquiry and investigation in letter and spirit as mandated by the Tamil nadu Maintenance and Welfare of Parents and Senior Citizens Act 2007 and Rules 2009.

For Appellant

:Mr.M.Sathiamoorthy

For 2nd Respondent

:Mr.A.SivaSubramanian

for M/s.Siva Ayyappan Associates

**JUDGMENT**

(Judgment of the Court was delivered by **M.M. SUNDRESH, J**)

The appellant and the third respondent are the sons of the second respondent. Alleging that she has not been taken care of by them, the second respondent filed an application before the first respondent under the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007. After issuing notice to the appellant and the third respondent, an order was passed by the first respondent directing them to pay a sum of Rs.2,000/- each to the second respondent. The said order was put to challenge before the learned Single Judge by the appellant inter-alia alleging that the documents sought for by him have not been furnished. The learned Single Judge after finding that the appellant was given sufficient opportunity to put forth his case, directed him as well as the third respondent to pay a sum of Rs.2,000/- each, thus, confirming the order of the first respondent. Challenging the same, the present writ appeal has been filed.

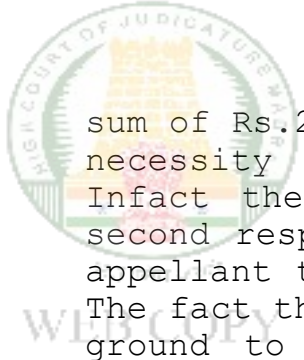
2.The learned counsel appearing for the appellant would submit that the contention regarding non-furnishing of the documents relied upon has not been considered by the learned single Judge and a factual error has been committed by the learned Single Judge by directing the appellant to pay a sum of Rs.2,000/- to the second respondent.

3.The learned Counsel appearing for the second respondent would submit that the appellant is a man of needs and the relationship between the parties are not in dispute. Thus, no interference is required.

4.The first respondent gave a factual finding that the request made by the appellant lacks bonafide. Secondly, the first respondent took note of the intensive dispute between the parties. Thirdly, after taking note of the need of the second respondent and the ability of the appellant to pay the amount the order was passed. The learned Single Judge has rightly found that adequate opportunity was given to the appellant.

5.We find no error in the order passed. The object of the enactment is to give benefits to the old people. The nature of adjudication is not judicial. Therefore, it is only a summary proceedings as seen from Section 8 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007. What is mandated under the said Section is inquiry. Admittedly, the appellant was given opportunity of being heard. It is not the case of the appellant that he is unable to pay that amount. The relationship between the parties are not in dispute. Thus, we do not find any error in the order passed by the learned Single Judge.

6. In view of the above, the Writ Appeal stand dismissed. However, it is clarified that the appellant is duty bound to pay a



sum of Rs.2,000/- per month to the second respondent and there is no necessity for him to make any payment to the third respondent. Infact the 3rd respondent has to pay a sum of Rs.2,000/- to the second respondent. It is submitted by the learned counsel for the appellant that the appellant is taking care of his sister till now. The fact that the appellant is taking care of his sister cannot be a ground to deny the relief sought for by the second respondent, though it is disputed by the second and third respondent.

No costs. Consequently, connected M.P.(MD) No.1 of 2014 is also dismissed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To:

The Sub Divisional Magistrate cum
Revenue Divisional Officer, Thanjavur.

+1cc to Mr.A.SIVASUBRAMANIAN Advocate in SR. NO.68246
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.68686
+1cc to Mr.M.SATHIAMOORTHY Advocate in SR. No.67827
RMI/TA
JS/SKN.RSK/SAR.1/9.8.2017/3P-5C

W.A.(MD)No.752 of 2014
and
M.P.(MD)No.1 of 2014
26.07.2017