



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.A.[MD].No.259 of 2017
and
C.M.P. (MD) Nos.2666 & 2667 of 2017

S.M.Sivagami Achi .. Appellant/Petitioner
Vs.

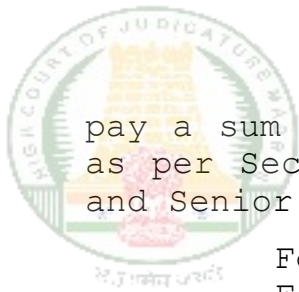
1. The District Collector,
District Collectorate, Madurai.
2. The District Revenue Officer,
O/o.The District Revenue Officer,
Madurai.
3. The Commissioner of Police,
O/o.The Commissioner of Police,
Alagar Kovil Main Road,
Madurai City, Madurai.
4. The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Madurai, Madurai District.
5. S.M.S.Selva Ganesan
6. Inbavalli
- 7.The Inspectof of Police,
Anna Nagar Police Station,
Madurai, Madurai District.

.. Respondents/Respondents

PRAYER: Appeal is filed under Clause 15 of the Letter Patent Act, against the order, dated 15.03.2017 made in W.P. (MD) No.4356 of 2017 on the file of this Court.

Prayer in WP(MD). 4356/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents Nos 1 to 4 to protect the Petitioner and ensure the life and dwelling house of the petitioner in plot No. 580, K.K.Nagar west, Madurai and consequently direct the Respondent Nos.5 and 6 to



pay a sum of Rs. 40,000/- to the petitioner as monthly maintenance as per Section 20 of Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules 2009.

For Appellant : Mr.T.Lajapathi Roy
For R-1 to R-4 & R-7 : Mr.C.M.Mari Chellaiah Prabu
Additional Government Pleader
For R-5 & R-6 : Mr.K.Samidurai

JUDGEMENT

**[Judgement of the Court was delivered
by K.RAVICHANDRABAABU, J]**

This writ appeal is directed against the order of the writ Court in dismissing the writ petition filed by the petitioner/appellant, as not maintainable.

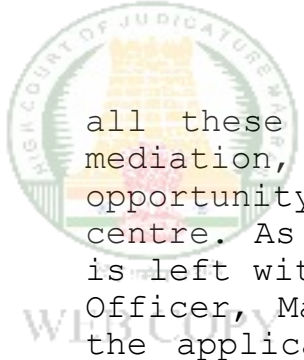
2.The writ was filed for a Mandamus directing the official respondents 1 to 4 to protect the writ petitioner and ensure the life and dwelling house of the petitioner in plot No.580, K.K.Nagar West, Madurai and consequently direct the respondent Nos.5 and 6 to pay a sum of Rs.40,000/- to the petitioner as monthly maintenance as per Rule 20 of Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

3.The writ court, after finding that the dispute with regard to the property between the parties cannot be a subject matter in a writ petition and also on the fact that admittedly an application, dated 11.03.2017 filed by the writ petitioner under the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, is pending before the competent authority, dismissed the writ petition as not maintainable.

4.Now, the present appeal is filed by the writ petitioner.

5.Heard both sides and perused the materials placed before us.

6.The writ petitioner is the mother and the fifth respondent is the son. The sixth respondent is the daughter-in-law of the writ petitioner and wife of the fifth respondent. Now, the dispute is between the mother on one side and son and daughter-in-law on the other side, in respect of the subject matter property. The mother claims that she is entitled to the said property, whereas the son claims that it is his self-acquired property. No doubt, this disputed question of title over the property cannot be gone into by this Court exercising writ jurisdiction. But at the same time, it is not in dispute that the mother, viz., the writ petitioner has already filed an application before the fourth respondent on 11.03.2017, under the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act and such application seeking some relief is still pending consideration before the fourth respondent. Therefore, it is for the fourth respondent to consider the said application and pass orders on the same on merits and in accordance with law after hearing the petitioner and the fifth respondent. Unfortunately, the mother and son are fighting with each other without realising that



all these issues could have been sorted out amicably by way of mediation, even though this Court has already given such an opportunity to the parties by referring the matter to the mediation centre. As the mediation has failed between the parties, this Court is left with no other option except to direct the Revenue Divisional Officer, Madurai, who is the fourth respondent herein, to consider the application of the writ petitioner, dated 11.03.2017 and pass orders on the same, on merits and in accordance with law, after hearing all the parties concerned, as stated supra. Such exercise shall be done by the fourth respondent within a period of four weeks from the date of receipt of a copy of this order. Pending an order to be passed by the fourth respondent, both the parties are directed to maintain status-quo in respect of the subject matter property.

7. With the above directions, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
District Collectorate, Madurai.
2. The District Revenue Officer,
O/o. The District Revenue Office,
Madurai.
3. The Commissioner of Police,
O/o. The Commissioner of Police,
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Madurai City, Madurai.
4. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Madurai, Madurai District.
5. The Inspector of Police,
Anna Nagar Police Station,
Madurai, Madurai District.

+1 CC to Mr.K.SAMIDURAI, Advocate in SR.No.73305

+1 CC to the Special Government Pleader, SR.No.73517

RJ2

RJ/RP/SAR-2/23/07/2018 - 3P/8C