

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

Writ Appeal No.276 of 2019

Date: 29.03.2019

Between:

V. Sashikiran and another

...Appellants

and

Mrs. V. Siva Lakshmi and others

...Respondents

Counsel for the appellants : Mr. Papaiah Peddakula

Counsel for the respondent No.1: Mr. Mirza Nisar Ahmed Baig
Nizami

Counsel for the respondent Nos. 2, 4 to 6: GP for Home

Counsel for the respondent No.3: GP for Revenue

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellants have challenged the legality of the order dated 08.03.2019, passed by a learned Single Judge in W.P.No.42210 of 2018, whereby the learned Single Judge has allowed the petition filed by the respondent No.1, mother, and directed the respondent No.6, the Station House Officer, Kukatpally Housing Board Police Station, Kukatpally, to act upon the complaints filed by the respondent No.1 against the appellants, her son and daughter-in-law. The learned Single Judge has also directed the police to provide protection to the respondent No.1 and to restore the possession of the property to her, within three weeks from the date of receipt of a copy of the said order.

Briefly, the facts of the case are that the respondent No.1, the mother, claims to be the exclusive owner of Flat No.201, Sri Nilayam, Addagutta, Kukatpally Housing Board Colony, Kukatpally. According to her, she had filed a complaint on 31.10.2018 with the respondent No.6, the Station House Officer, Kukatpally Housing Board Police Station, alleging that her son and daughter-in-law (the appellants before this Court) are not only harassing her, but have also thrown her out of the flat. Moreover, they are indulging in criminal intimidation, and are trying their level best to get rid of her. On 08.11.2018, she further filed another complaint against the appellants with the same set of allegations. Moreover, since she was thrown out of her flat, she requested for police protection. Furthermore, she prayed that the possession of the flat should be given back to her. However, despite the fact that on 12.11.2018, she had lodged a complaint with the Commissioner of Police, Cyberabad Metropolitan Police,

all her complaints to the police fell on deaf ears. She further claims that she had filed a complaint before the District Collector to grant protection to her life and property in accordance with the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ("the Act" for short). However, even the said complaint did not elicit any reaction from the District Collector. Left with no other option, she finally knocked at the doors of this Court by filing the Writ Petition. By the impugned order, the learned Single Judge has directed the respondent No.6, the Station House Officer, and the District Collector as mentioned hereinabove. Hence, this appeal before this Court.

The learned counsel for the appellants, Mr. Papaiah Peddakula, has raised the following contentions:

Firstly, under the Act a procedure has been established, whereby the mother should have approached the Tribunal for redressal of her grievances. Since an alternate remedy did exist in her favour, she was not justified in filing the Writ Petition before this Court.

Secondly, there are certain property disputes that exist between the mother and the son. They can only be resolved by approaching a Civil Court. Therefore, the learned Single Judge is not justified in restoring the possession of the property to the mother.

Lastly, the appellants are eager to keep the respondent No.1 with them. But it is the mother, who refuses to live with them. Therefore, according to the learned counsel, the impugned order deserves to be interfered with.

Heard the learned counsel for the appellants.

It is, indeed, trite to state that the availability of an alternate remedy and the non-invoking of writ jurisdiction is a self-imposed restriction placed by the High Court upon its writ powers. The mere existence of an alternate remedy does not denude the High Court of its writ jurisdiction. Considering the fact that the main grievance of the respondent No.1 is the apathy and the neglect shown by the police and the District Collector, she was well justified in approaching this Court under Article 226 of the Constitution of India. Therefore, the first contention raised by the learned counsel for the appellants is clearly unacceptable.

Even if there are property disputes between the appellant No.1 and the respondent No.1, the son and the mother, it is for the son to resolve the civil disputes by approaching a proper Civil Court. Merely because a dispute does exist between the son and the mother, the son does not have any legal or moral right to throw his mother out of the property. Therefore, the learned Single Judge is justified in directing that the possession of the property has to be restored to the respondent No.1.

It is a rather curious argument on behalf of the appellants that, on the one hand, they claim that it is they who want to live with the mother and, yet, they have filed the present Writ Appeal before this Court. The son would rather drag the mother to another round of litigation and, yet, claims before this Court that he is an obedient son, who wants to fulfil his pious obligation towards his mother by keeping her with his family. Obviously, the appellants are blowing hot and cold simultaneously. Therefore, even this self-contradictory stand is clearly unsustainable.

The Indian culture is known the world over for the respect the people pay to their parents. A tradition, spread over millennium, has taught the people to respect and to care for the parents. However, in the modern world, as the family ties are being broken, the emotional bond between the parents and the children is being snapped. Resultantly, the more the children form their own nuclear families, the more they neglect the interests of the aged parents. Things have come to such a naught that finally, the Parliament had to enact the Act. The enactment of the law is a sad commentary on the youth of India, who are cocooned in their own worlds, and are forgetting to look after their parents. The children are forgetting that their very existence, both physically and socially, is a byproduct of their parents. The parents not only give birth to the child, but also educate him/her, cultivate social etiquettes, infuse a sense of morality, ensure his/her well-being, get him/her married, and establish his/her household. But despite the trials and tribulations, the pain and agony, the joy and sorrows undertaken by the parents for the well-being of their children, the children tend to neglect and forget the parents in their old-age.

The mushrooming of old-age homes is a clear testimony of the moral vacuum, which is filling up the minds of the people. "Gratitude" and "indebtedness" are becoming more and more rare commodities. It is only History, which teaches us that the society deprived of its moral force, of its traditional roots tends to collapse from within. Sociology teaches us that "family" is the basic unit of any society. Psychology and History teach us that a society deprived of a moral sense begins to collapse from within. Therefore, it is imperative that the family is protected as a unit,

and morality in terms of doing our duty towards the family, towards the community, towards the society, and towards the nation should be strengthened not just by law, not just by the judiciary, but by every citizen.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. This appeal is devoid of merit and it is hereby dismissed. In case, the possession of the property is not restored by the police, within the stipulated period of three weeks, the respondent No.1-mother shall be free to immediately file a contempt of court petition before this Court. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T.AMARNATH GOUD, J)

29th March, 2019

Note: LR Copy to be marked.

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