

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION NO.8979 OF 2019

ORDER:

This Writ Petition is filed stating that the petitioner is the owner and possessor of house bearing H.No.23-1-342/2, Jafri Lane, Kotla Ali Jah, Hyderabad. Having purchased the same through registered document No.190 of 1974, as against the same, the name of the petitioner is also mutated in the revenue records. The petitioner is a retired Government servant and receiving pension which is sufficient for his survival. The petitioner has two sons and two daughters. The eighth respondent, who is the son of the petitioner, is trying to establish his business but he was unsuccessful and he has been switching of to a new business for which he is in need of money. He has no source of income and depends on the petitioner and his deceased wife. The petitioner's wife, who was a Government Teacher, used to help the eighth respondent. To secure the future of respondents 8 to 11, the petitioner, his wife and his daughter contributed amounts and purchased a house property in the name of the eighth respondent bearing H.No.10-196/9/1, Lubna Colony, Venkatapur, Balapur, Ranga Reddy District. However, the petitioner and his wife requested the eighth respondent to vacate the said premises but he let out the same and continued to reside in the house of the petitioner. After retirement, as the petitioner's wife stopped financial assistance to the eighth respondent, he started harassing both of them. Due to the atrocities committed by the eighth respondent, the petitioner's wife passed away in October, 2018. When the petitioner refused to give an amount of Rs.90,000/-, the

eighth respondent threatened him and pressurized him to sign the cheque. When the petitioner refused to sign, the eighth respondent slapped the petitioner on his face, as a result the petitioner fell down on the floor. The petitioner called his daughters and his brother and informed the incident. His brother took him to Moghalpura Police Station on 31.01.2019 where the petitioner gave a complaint but the police personnel refused to take the complaint and in turn, counselled them to resolve the family disputes. The grievance of the petitioner is also taken to the notice of the Commissioner of Police, Hyderabad. Though the Commissioner of Police received the complaint from the petitioner, he failed to take appropriate action. When the fact of approaching Police Station was known to the eighth respondent, he again started harassing the petitioner and also tried to obtain his signatures on blank non-judicial papers. It is stated that the petitioner went to the seventh respondent and gave a representation but no action has been initiated. The petitioner is aged about 75 years and there were no one to protect him. Aggrieved by the action of the official respondents in not providing police protection under Rule 21 Chapter VI of the Maintenance and Welfare of Parents and Senior Citizens Rules, 2011 ("the Rules" for brevity), the present Writ Petition is filed.

Learned Assistant Government Pleader for Home appearing for respondents 1, 4, 5, 6 and 7 submits that since the dispute is between father and son, they referred the matter to the concerned Revenue Divisional Officer.

Counter affidavit is filed by respondents 8 to 11 denying the allegations made by the petitioner and stating that when the eighth

respondent was in South Africa, he used to send money to the petitioner and supported the entire family financially and by the said amount, the petitioner has constructed the house and married the daughters of the petitioners. The eighth respondent also contributed Rs.30 lakhs when his mother was ill and that the petitioner is acting under the ill-advice of his daughters as they want share in the property. It is also stated that the petitioner has alienated the said property by way of oral Hiba on 15.02.2017 in the presence of the witnesses and handed over actual and physical possession of the property admeasuring 107 square yards situated at Jaffri Galli, Kotla Alijah, Hyderabad. The other allegations are also denied. The eighth respondent filed O.S.No.1164 of 2019 on the file of the VIII Junior Civil Judge, City Civil Courts, Hyderabad, against his sisters and their husbands for perpetual injunction. It is also stated that the eighth respondent is the absolute owner and possessor of the subject property. Ultimately, the eighth respondent states that he is the obedient son of the petitioner and he is ready to serve him if the petitioner stays with him. As the provisions of the Act are not applicable to the present case, he sought for dismissal of the Writ Petition.

Heard the learned counsel for the petitioner who relied on Rule 21 of the A.P. Maintenance of Parents and Senior Citizens Rules, 2011, which reads as under:-

“Action plan for the Protection of Life and Property of Senior Citizens:-

- (1) The District Superintendent of Police, and in the case of cities having a Police Commissioner, such Police Commissioner shall take all necessary steps, subject to such guidelines as the State Government may issue from time to

time, for the protection of life and property of Senior Citizens.

- (2) Without prejudice to the generality of sub-rule (1)
 - (i) Each police station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves with the assistance of Volunteers Committee formed under Rule 21(2)(iv).
 - (ii) A representative of the police station together, as far as possible, with an office bearer of a senior citizens' organization or social worker or volunteer shall visit such senior citizens living on their own at regular intervals or at least once a quarter and shall, in addition, visit them as quickly as possible on receipt of a request for assistance from them.
 - (iii) Community policing for the security of senior citizens will be undertaken by Police in conjunction with citizens living in the neighborhood. Residents' Welfare Associations, Youth volunteers, Non-Governmental Organizations etc.
 - (iv) One or more Volunteers' Committee(s) shall be formed for each Police Station, consisting of a respectable senior citizen, a member of an accredited NGO, a women member who could be a member of any one of the Government Committees like Child Welfare Committee, a retired person who has served in uniform service, which shall ensure regular contact between the senior citizens, especially those living by themselves, on the one hand, and the police and the district administration on the other.
 - (v) Complaints/problems of senior citizens shall be promptly attended to by the local Police.
 - (vi) Antecedents of domestic servants and others to be engaged by senior citizens shall be promptly verified by the concerned Station House Officer with the assistance of concerned Village Administration Officer and/or concerned other Local Level Officers, on the request of such citizens.
 - (vii) The District Superintendent of Police or the Police Commissioner, as the case may be, with the

assistance of District Committee, with the help of the Assistant Director Welfare of Disabled and Senior Citizens, and District Public Relations Officer, shall cause wide publicity in the media and through the Police stations, at regular intervals, the steps being taken for the protection of life and property of senior citizens. List of Do's and Don'ts to be followed by senior citizens in the interest of their safety will be widely publicized.

- (viii) Each Police station shall maintain a separate register containing all important particulars relating to offences committed against senior citizens including the names of their children, relatives or legal heirs in such form as the State Government may, by order, specify.
- (ix) The register referred to in clause (viii) shall be kept available for inspection, to the members of Voluntary Committee, State Council and District Committee formed under Rules 21(2)(iv), Rule 22 and Rule 23 respectively. Every Officer inspecting a Police Station shall invariably review the status as reflected in the register.
- (x) The Police Station shall send a monthly report of such crimes to the District Superintendent of Police or the Police Commissioner, as the case may be, by the 10th of every month.
- (xi) The District Superintendent of Police/Commissioner of Police shall submit to the Director General of Police and to the District Magistrate, a monthly report by 20th of every month, about the status of crime against senior citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month.
- (xii) The District Magistrate shall cause the report to be placed before the District Level Coordination-cum-Monitoring Committee constituted under Rule 23.
- (xiii) The Director General of Police shall cause the reports submitted under clause (xi) to be compiled, once in a quarter, and shall submit them to the State Government every quarter as well as every year for

being placed before the State Council of Senior Citizens constituted under Rule 22.”

The counsel for the petitioner states that the respondents-police are bound to give necessary protection to the life and property of senior citizens. Even though the petitioner approached the respondent-police, no action has been taken nor is any crime registered. It goes to show that the respondent-police are not following the provisions of the Act and the Rules. He also reiterated the contentions raised in the writ affidavit regarding the treatment meted out by the eighth respondent, who is the son of the petitioner and the agony of the petitioner in his hands. The petitioner relied on the order passed by a Single Judge of this Court dated 08.03.2019 in W.P.No.42210 of 2018, which was confirmed by the judgment of a Division Bench of this Court in W.A.No.276 of 2019 dated 29.03.2019.

Rule 21 of the Rules obligates the respondent-police for taking necessary steps for protection of life and welfare of the senior citizens. In this case, though the eighth respondent admits that the petitioner is the original owner of the property, but claims oral gift and he also states that he is willing to serve petitioner if he stays with him. The same is disputed by the petitioner. When that is the case, the respondent-police would have taken necessary steps for protecting life and property of the petitioners but instead they have not even registered a criminal case and simply they washed away their hands by referring the matter to the concerned Revenue Divisional Officer.

Learned Single Judge, while considering the provisions of the Act, directed the respondent-police in W.P.No.42210 of 2018 to

grant necessary police aid to the petitioner and also for restoring the possession of the subject house wherein exactly similar contentions have been raised by the respondents and the said order was confirmed by the judgment of the Division Bench in W.A.No.276 of 2019 dated 29.03.2019. Further, when the oral gift is disputed, it is for the eighth respondent to prove the same.

Though alternative remedy is pleaded that cannot be ground to entertain this Writ Petition and such plea is negated by the above referred judgment.

In view of the facts and circumstances of this case, this Court is of the opinion that the respondent-police would have acted on the complaint of the petitioner and take necessary action for restoration of the possession and also protection of life and property of the petitioner.

Accordingly, the Writ Petition is allowed directing the respondent-police to take necessary action for restoration of possession of H.No.23-1-342/2, Jafri Lane, Kotla Ali Jah, Hyderabad, to the petitioner. There shall be no orders as to costs. Miscellaneous applications, if any, pending shall stand closed.

(A.RAJASHEKER REDDY, J)

26th June 2019
RRB