

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.382 of 2013

Nachammal

..Petitioner

Vs

1. The District Collector,
Namakkal District.

2. The District Revenue Officer,
Namakkal District.

3. Ravichandran * #

...Respondents

* Impleaded as per Order dated 14.02.2014
in MP No.1 of 2013

Dismissed - vide order dated 01.09.2016

Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus to direct the
respondents to take on file the Original Petition dated
15.10.2012 and dispose the same.

For petitioner : Mr.I.Abrar Mohamed Abdullah

For respondents : Mr.R.S.Selvam

Government Advocate for RR1&2

ORDER

This writ petition has been filed for a Mandamus to direct
the respondents to take on file the original petition dated
15.10.2012 filed by the petitioner under the Maintenance and
Welfare of Parents and Seniors Citizens Act, 2007.

2. It is the case of the petitioner that she is a senior
citizen and is the owner of the self acquired property comprised
in Survey Nos.25/6A and 25/4 having purchased the same under a
sale deed dated 14.02.1975. According to the petitioner, she
has been living in the said property by constructing a tiled
house by availing a loan from Housing societies in the year 2003
and she has been repaying the loan till 2009.

3. It is the case of the petitioner that her son had tried to evict her unlawfully from her house and therefore, she was constrained to file a suit in O.S. No.560 of 2005 seeking for the relief of permanent injunction, which according to her was also decreed in her favour. According to the petitioner, despite the said decree, the petitioner was thrown out of the house unlawfully by her son.

4. It is also her case that her son threatened her that she would be burnt alive inside the said house. According to the petitioner, she is suffering from diabetes and cardiac diseases and taking treatment for the same. According to her, she does not have any other means of livelihood. In such circumstances, it is the case of the petitioner that she filed the original petition under the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007 before the second respondent to take action against her son. It is the case of the petitioner that despite the filing of the original petition, the second respondent has not taken any action nor any reply received by the petitioner for the said original petition. In such circumstances, this writ petition has been filed.

5. Heard Mr.I.Abrar Mohamed Abdullah, learned counsel for the petitioner and Mr.R.S.Selvam, learned Government Advocate for respondents 1 and 2.

6. Admittedly, an original petition dated 15.10.2012 has been filed by the petitioner under the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007. It is also the case of the petitioner that she is a senior citizen and she is the owner of a self acquired property comprised in survey Nos.25/6A and 25/4, purchased under the sale deed 14.02.1975. It is also the case of the petitioner that she has been illegally thrown out of the said house by her son. In such circumstances being a senior citizen, she has filed the original petition before the second respondent under the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007 to take action against her son.

7. Section 5 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 enables the second respondent to take action against the children of a Senior Citizen, if maintenance is not provided by them to their aged parents. Admittedly, neither action has been taken by the respondents till date nor the original petition filed by the petitioner has been considered on merits. In such circumstances, no prejudice would be caused to the respondents, if the original petition filed by the petitioner is taken on file and considered on merits in accordance with the provisions of the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007.

8. Accordingly, this Court directs the respondents to consider the original petition filed by the petitioner under the aforesaid Act and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order after hearing the necessary parties, which includes the son of the petitioner.

9. With the aforesaid directions, the writ petition stands disposed of. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vsi2

To

1. The District Collector,
Namakkal District.

2. The District Revenue Officer,
Namakkal District.

+1 CC to Mr.I.Abrar Md. Abdullah, Advocate sr 3730.

+1 CC to The Govt. Pleader sr 4393

W.P. No.382 of 2013

RSV(CO)
SP(25/02/2020)

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