

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14499 of 2020
(Heard through VC)

Nanjathal

.. Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.

2. K.Sivakumar .. Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's appeal dated 31.12.2019 filed against the order of the Sub Collector, Pollachi, vide Proceedings AA.MA.No.2171/2019/A1 dated 20.12.2019.

For Petitioner : Mr.D.R.Arun Kumar

For Respondent-1 : Mr.P.V.Selvakumar
Additional Government Pleader

ORDER

By consent of both parties, the writ petition is disposed of at the stage of admission itself.

2. The prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's appeal dated 31.12.2019 filed against the order of the Sub Collector, Pollachi, vide Proceedings AA.MA.No.2171/2019/A1 dated 20.12.2019.

3. The petitioner is the absolute owner of the property comprised in S.F.No.52-2B & 53-3B, Singanallur Village, Coimbatore District. She has executed a settlement deed dated 29.05.2003 in favour of her son, who is the second respondent herein. Due to change in the attitude of her son, subsequent to the execution of the above said deed, the petitioner has cancelled the above settlement deed on 23.02.2011.

3.1. Challenging the above said cancellation deed, the second respondent has filed a suit in O.S.No.485 of 2011 on the file of District Munsif Court, Pollachi for declaration.

Therefore, the petitioner has filed an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Sub Collector, Pollachi for peaceful enjoyment of the property. However, the Sub Collector, vide proceedings in AA.MA.No.2171/2019/A1 dated 20.12.2019, has rejected the claim of the petitioner citing the pendency of the above suit and directed the second respondent herein to pay a monthly maintenance amount of Rs.5,000/- to the petitioner. Aggrieved by the above order, the petitioner has preferred an appeal before the first respondent dated 31.12.2019. But the same was not considered till date. Hence, the present writ petition has been filed.

4. Heard both sides and perused the materials available on record.

5. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the case, directs the first respondent to consider the petitioner's appeal dated 31.12.2019, enquire into the same and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner, as well as the second respondent herein and by affording them an opportunity of personal hearing or virtual hearing or otherwise considering their written objections and after verifying the relevant documents, on or before 30.11.2020.

6. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-V)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

rsi/srn

To

1.The District Collector,
Coimbatore District,
Coimbatore.

2. The Sub Collector, Pollachi.

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LN (CO)

GMV (22/10/2020)

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