

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.15795 of 2020

and

W.M.P.No.19634 of 2020

(Heard through VC)

Meenakshi

..Petitioner

Vs.

1. The District Collector,
Erode District, Erode.

2. The Revenue Divisional Officer,
Erode District.

3. K.Ramkumar

4. K.Vishwanathan

5. Mahesh alias Maheswaran

6. K.Chitra

7. K.Latha

8. The Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.

..Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to conduct free and time bound enquiry in proceedings in Na.Ka.2914/2019/AA2 dated 12.07.2019 on petitioner's petition seeking protection, safety and dignified living and livelihood in petitioner's house bearing old Door No.35/20, East Agraharam by following the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and its TN Rules, 2009 and dispose of the Same in time bound manner.

For Petitioner : Mr.R.Prabakar

For RR1, 2 & 8 : Mr.V.Shanmugasundar
Special Government Pleader

O R D E R

With the consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The relief sought for in this writ petition is for a direction to the second respondent to conduct free and time bound enquiry in proceedings in Na.Ka.2914/2019/AA2 dated 12.07.2019 on petitioner's petition seeking protection, safety and dignified living and livelihood in petitioner's house bearing old Door No.35/20, East Agraharam by following the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and its Rules, 2009 and dispose of the same in a time bound manner.

3. The respondent Nos.3 to 7 are the children of the petitioner. The fourth respondent and his wife requested the petitioner to vacate the house by giving an assurance that after construction of a new house, they will accommodate the petitioner in the new house. But after the construction of the house, the fourth respondent and his wife neglected to accommodate the petitioner in her house. Aggrieved by the same, the petitioner has filed an application dated 10.07.2019 under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the first respondent, seeking protection and well maintenance. The same was forwarded to the second respondent for enquiry. The second respondent issued summons in Na.Ka.No.2914/2019/Aa2 dated 12.07.2019 to the petitioner for conducting enquiry on 22.07.2019. The petitioner also appeared and submitted all the relevant documents. The Village Administrative Officer has also conducted local enquiry and submitted a report to the second respondent. The petitioner has sent reminder request dated 14.08.2020 to the first and second respondents. But the second respondent, neither conducted any enquiry nor ordered any maintenance. Hence, the above writ petition has been filed.

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

5. The petitioner has made a claim of maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The very Act is to provide for effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto.

6. The application for maintenance is provided for Section 4 and 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

7. It is useful to extract Section 5(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which reads as hereunder:

"5 (2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this Section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent, as the Tribunal may from time to time direct."

8. Once an application is filed for maintenance under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, an enquiry has to be conducted. As stated, in this case, the second respondent had issued summons on 12.07.2019 and conducted an enquiry on 22.07.2019. However, no order has been passed till date.

9. Section 5(4) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is as follows:-

(4) An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

10. As per the above provisions, the Act mandates the authorities to dispose of such application within a period of 90 days from the date of service of notice of such application to such person.

11. In this case, the enquiry itself is completed as early as on 22.07.2019. The application ought to have been disposed of before the end of October 2019. However, it was kept pending for more than an year, which had constrained the petitioner to move this Court. Even presuming that the extension of time of 30 days contemplated in the proviso to Section 5(4) is to be calculated, before the end of November 2019, the order ought to have been passed. The delay on the part of the respondent authorities only defeats the intention of the legislation itself.

12. 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

second respondent to dispose of the petitioner's application dated 10.07.2019, enquire into the same and pass appropriate orders including the question of maintainability, on merits and in accordance with law, after issuing notice to the petitioner, as well as the respondent Nos.3 to 7 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, within a period of eight weeks from the date of receipt of a copy of this order.

13. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District, Erode.
2. The Revenue Divisional Officer,
Erode District.
3. The Inspector of Police,
Kodumudi Police Station,
Kodumudi, Erode District.

+1cc to M/s.R.Prabakar, Advocate, S.R.No.35968

W.P.No.15795 of 2020

and

सत्यमेव जयते

W.M.P.No.19634 of 2020

RSV(CO)
rv(06/01/2021)

WEB COPY