

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16742 of 2020

R.Rani

.. Petitioner

vs.

1.The District Collector,
Tiruvallur District,
Tiruvallur.

2.The Revenue District Officer,
Tiruvallur, Tiruvallur district.

3.R.Dinakaran

.. 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 pass orders on the appeal petition under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, pending before him, within a time stipulated by this Court and pass such further or other orders as this Court may deem fit and proper circumstances of the case.

For Petitioner : Mr.S.Gopinathan

For Respondents : Mr.R.S.Selvam, G.A., for RR1 & 2

ORDER

Mr. R.S.Selvam, learned Government Advocate takes notice for the respondents.

2.The Writ Petition is filed by the petitioner, to direct the 1st respondents to pass orders on the appeal petition under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, pending before him, within a time stipulated by this Court.

3. According to the petitioner, she is the absolute owner

of the land and building bearing Door No.336, Trunk Road, Karaiyanchavadi, Ponnammalle Village and Taluk, measuring an extent of 2460 Sp.ft, and she was obtained the same through a registered Settlement Deed dated 25.10.1980, registered on the file of SRO, Ponnammalle, as Document No.3289/1980. It is the case of the petitioner that her husband died on 5.2.1992 leaving behind her and her children as legal heirs. When she was enjoying the said property by constructing shops and godowns and collecting the rents from 4 shops and from the godowns, the 3rd respondent has been collecting rents after threatening her with dire consequences and she was unable to inform anybody about the receipt of the rent by the 3rd respondent. While so, in the month of May 2017, during the dispute with the 3rd respondent, she was informed about the settlement deeds executed in favour of 3rd respondent and her other 3 daughters through the Doc.Nos.311,312, 313, 314/2010 on the file SRO, Ponnammalle measuring 1800 Sq.ft, 210 Sq.ft, 240 Sq.ft and 210 Sq.ft respectively. The grievance of the petitioner is that after the settlement deed, no one is ready to take care of the petitioner and she being aged about 77 years and suffering from age related ailments and without any assistance and helping hand, she moved an application before the 2nd respondent under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 to declare the Settlement Deed dated 25.02.2010 as null and void and restore the same to the petitioner. However, the said application was rejected by the 2nd respondent by order dated 5/4/2018 on the ground that there is no specific clause for taking care for the petitioner, available in the Settlement Deed. Against the said order of rejection, the petitioner filed an appeal before the 1st respondent under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, in the month of May 2018 itself, the 1st respondent also conducted the personal hearing after taking the appeal on the file in No.458/A1/2018 in the month of February 2019 itself, however the 1st respondent has not passed any orders till date and, hence left with no other alternative, the present petition is filed.

4.Learned counsel for the petitioner submitted that though she settlement Deed stood in her favour, after the demise of her husband, the settlement Deed was executed by her in favour of the legal heirs of the petitioner and they are responsible to care and maintain the petitioner. Without appreciating all the materials, the 2nd respondent has dismissed the maintenance petition filed by her and in the appeal no order has been passed till date due to which the petitioner is suffering very much and unable to take care of herself, both physically as well as monetarily. Accordingly he prays for allowing the petition with the above said prayer.

5. On the above contention, this Court heard the learned Government Advocate appearing for the respondents, who fairly conceded the request made by the learned counsel for the petitioner and submitted that the authorities under the Act are duty bound to pass orders within a reasonable time, more especially, the petitioner being a senior citizen.

6. The facts in the present case is not disputed one. In view of the limited request made by the learned counsel for the petitioner, without expressing any opinion, I am inclined to issue a direction to the 1st respondent to consider the petitioner's appeal and conduct a detailed enquiry, and after hearing the petitioner and 3rd respondent, the 1st respondent shall pass orders on the said application relating to non maintenance of the petitioner by her legal heirs. The 1st respondent is directed to take immediate steps to pass appropriate order in the petitioner's appeal within a period of 2 weeks from the date of receipt of copy of this order, in accordance with law, after hearing the parties.

7. This writ petition is disposed of accordingly. However in the said circumstances, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jrs

To

1. The District Collector,
Tiruvallur District, सत्यमेव जयते
Tiruvallur.

2. The Revenue District Officer,
Tiruvallur, Tiruvallur district.

+1cc to Mr.S.Gopinathan, Advocate, S.R.No. 38066
+1cc to the Government Pleader, S.R.No. 38234

W.P.No.16742 /2020

SSV(CO)
GN(29/12/2020)