

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.NO.18229 OF 2020  
(HEARD THROUGH VC)

K.R.Jayabalan

.. Petitioner

Vs.

1. The Revenue Divisional Officer,  
Tirupur.

2. J.Sakkarapani

.. Respondents

PRAYER:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first respondent to pass orders on the application of the petitioner, based on notice for enquiry dated 17.08.2020 in Na.Ka.No.2024/2020/A4 within the stipulated time.

For Petitioner : Mr.C.Prabakaran

For Respondent-1 : Mr.R.S.Selvam, Govt.Advocate.

ORDER

With the consent of the learned counsel for the petitioner and the learned Government Advocate for the respondent-1, this writ petition is taken up for final hearing. In view of the order this Court proposes to pass, notice to the second respondent is not necessary.

2. The Writ Petition is filed seeking a mandamus to direct the first respondent to pass orders on the application of the petitioner, based on notice for enquiry dated 17.08.2020 in Na.Ka.No.2024/2020/A4 within the stipulated time.

3. It is stated that the petitioner is a senior citizen and he has two sons and one daughter. His wife Parimala died on 22.04.2012. Subsequent to death of his wife, he was living with his elder son, Durairaj, till the year 2018. Thereafter, he was living with his younger son, Sakkarapani/second respondent, who

is working as BT Assistant Teacher in a middle School. Out of love and affection, the petitioner has executed settlement deeds in respect of certain properties in favour of his younger Son, Sakkarapani. Thereafter, the said Sakkarapani has changed his attitude and assaulted the petitioner on many occasions. Hence, the petitioner lodged a complaint before the Inspector of Police, Uthukuli Police Station. An enquiry was conducted in this regard and the petitioner's younger son agreed to pay a sum of Rs.3 lakhs to the petitioner, towards maintenance and also to execute the property in favour of the petitioner's elder daughter. However, the petitioner was neither paid the money nor executed the document. Hence, the petitioner was constrained to file an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeking relief of maintenance and declaration of the settlement deeds as null and void on 20.07.2020. Based on the said application, the first respondent had issued a notice for enquiry on 17.08.2020 in Na.Ka.No.2024/2020/A4, calling upon the petitioner and the second respondent to appear on 25.08.2020 at 4.00pm and the petitioner had also appeared in person and submitted all necessary documents and written explanation. But, no orders have been passed till date. Hence, the petitioner is before this Court.

4. The petitioner, who is aged about 75 years, has made his application to the District Collector, Tiruppur on 13.09.2019, who in turn, sent a communication on 10.08.2020 to the first respondent, in his proceedings in No.Na.Ka.No.11670/2020/E1, directing him to conduct an enquiry and pass orders on the said application. Accordingly, the first respondent also issued summons to the petitioner as well as the second respondent on 17.08.2020, calling upon them to appear on 25.08.2020 before the first respondent with relevant documents. Both the petitioner as well as the second respondent are said to have appeared before the authorities and their statements are recorded on 25.08.2020. Despite the same, no orders have been passed by the first respondent till today.

5. It is useful to refer to Section 5(4) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in this regard, which is as follows:-

"5(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.

6. The above mentioned 90 days for disposal of the application is already over, though the Tribunal is empowered to extend the further period of 30 days in exceptional circumstances for reasons to be recorded in writing. In this case, after enquiry is over, no order is passed within the time stipulated nor any reasons given for an extension, which cannot exceed 30 days.

7. Be that as it may, the petitioner also seems to have sent a reminder on 23.09.2020 in this regard to the first respondent. In such circumstances, if the Same Officer is holding the posting of the first respondent, he is directed to pass orders on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

srn

To

The Revenue Divisional Officer,  
Tirupur.

+lcc to Mr.C.Prabakaran, Advocate, S.R.No.40522

+lcc to the Government Pleader, S.R.No.40740

SV(CO)  
CS/19/01/2021

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