

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.18369 of 2020

and

W.M.P.Nos.22767, 22769 & 22771 of 2020

(Heard through VC)

S.P.Ganesan

..Petitioner

Vs.

1.The District Collector,
O/o.Chennai District,
No.62, Rajaji Salai,
Chennai - 600 001.

2.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

3.The Superintendent of Police,
O/o.The Superintendent of Police,
Sivagangai District - 630 562.

4.G.Venkatesan

..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 initiate proceedings under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and safeguard the life and personal liberty and propertise owned to the petitioner.

For Petitioner : Mr.D.Bharathy

For RR1 & 3 : Mr.P.V.Selvakumar
Additional Government Pleader

For R2 : Mr.T.M.Pappiah
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 first respondent to initiate proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and safeguard the life and personal liberty and properties owned to the petitioner.

3. The case of the petitioner is that in the year 1989, he had purchased some property at Purasawalkam, Chennai. In the above said place, he has constructed shops and it was given for rent. During the year 2015, as per family arrangements, he has executed a registered settlement deed in favour of his son, who is the fourth respondent herein. Thereafter, without the knowledge of the petitioner, the fourth respondent has created bogus document and a settlement document was executed as Doc.No.4808 of 2015 on 23.10.2015. Subsequently, on the basis of the said bogus document, the fourth respondent has collected the rents from the tenants and has not come forward to pay any amount to the petitioner. In this regard, the petitioner has made several complaints to the third respondent, but there is no response. The grievance of the petitioner is that all his properties situated at Chennai and Sivagangai District were fraudulently transferred in favour of the fourth respondent and no proceedings have been initiated inspite of the complaints made to the Revenue and Police authorities and last such representation was made on 20.05.2020. Further, the fourth respondent has been receiving the monthly rents and not even paying a single paise for the petitioner. Hence, the petitioner has come up with this writ petition.

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 with the competent revenue officials. 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.

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. As far as the police complaints are concerned, it is for the petitioner to work out his remedy in accordance with law.

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 first respondent to dispose of the petitioner's application dated 20.05.2020, 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 fourth 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, within a period of four 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 petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi
To

1.The District Collector,
O/o.Chennai District,
No.62, Rajaji Salai,
Chennai - 600 001.

2.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

3.The Superintendent of Police,
O/o.The Superintendent of Police,
Sivagangai District - 630 562.

+1 CC to The Government Pleader sr 40940.

+1 CC to Mr.D.Bharathy, Advocate sr 40596 (24/02/2021)

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VSNI (CO)
SP(19/01/2021)

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