

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2021

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.1726 of 2021

P.S.Murthi

...Petitioner

Vs.

1. The District Collector,
O/o.The District Collector,
Chennai 600 001.

2. The Commissioner of Police,
O/o.The Commissioner of Police,
Vepery, Chennai 600 007.

3. P.S.Vijay

4. P.S.Suraj

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the first respondent to consider the representation dated 03.02.2020 of the petitioner by passing a necessary order under Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 to evict the 3rd and 4th respondents from residential building of the petitioner as the petitioner is not being permitted by the 3rd and 4th respondents to lead a normal life in the residential building with security and dignity and to ensure peaceful living of the petitioner with security and dignity.

For Petitioner : Mr.R.Amardeep

For Respondents 1 & 2 : Mr.V.Shanmugasundar
Spl.Govt.Pleader

For Respondents 3 and 4 : Mr.P.Thirumoorthi

ORDER

This Writ Petition has been filed for a mandamus seeking for a direction to the first respondent to consider the petitioner's representation dated 03.02.2020 given against the 3rd and 4th respondents under Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 to evict the 3rd and 4th respondents from the residential building of the

petitioner, as the petitioner has not been permitted by the 3rd and 4th respondents to lead a normal life in the residential building with security and dignity and to ensure peaceful living of the petitioner with security and dignity.

2. It is the case of the petitioner that the 3rd and 4th respondents, who are his sons, are harassing him and they are not allowing him to live peacefully in his residential property. He has given representation on 03.02.2020 before the official respondents under Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 against the 3rd and 4th respondents for the alleged harassment caused by them. Since the representation dated 03.02.2020 has not been considered by the official respondents, the petitioner has approached this Court under Article 226 of the Constitution of India.

3. A counter affidavit has also been filed by the second respondent giving the details of the complaints lodged by the petitioner against the 3rd and 4th respondents as well as giving details of the Civil Suit in O.S.No.8912 of 2009 pending on the file of the City Civil Court, Chennai between the petitioner and the 3rd and 4th respondents.

4. Heard Mr.Amardeep, learned counsel for the petitioner, Mr.V.Shanmugasundar, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.P.Thirumoorthy, learned counsel appearing for the respondents 3 and 4.

5. The relief sought for in this writ petition is an innocuous one. The petitioner has given a representation to the official respondents against the 3rd and 4th respondents under Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 to evict the 3rd and 4th respondents from the residential building of the petitioner, as according to the petitioner, he has not been permitted by the 3rd and 4th respondents to lead a normal life. Admittedly, the said representation has not been considered till date.

6. No prejudice will be caused to the respondents 3 and 4, if the petitioner's representation dated 03.02.2020 is considered on merits and in accordance with law, after affording a fair hearing to the respondents 3 and 4 to raise all objections available to them under Law.

7. The petitioner is a Senior citizen aged 87 years. Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 reads as follows:-

"20. Duties and powers of the District Collector

...

(2) It shall be the duty of the District Collector to,-

(i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;

8. As seen from the aforementioned Rule, it shall be the duty of the District Collector to ensure that the life and property of senior citizens of the District are protected and they are able to live with security and dignity. According to the respondents 3 and 4, the said Rule applies only to abandoned parents. According to him, the respondents 3 and 4 are not causing any harassment to the petitioner and the petitioner is allowed to live peacefully in the residential portion. According to him, it is only the petitioner, who is harassing the respondents 3 and 4.

9. All these factors will have to be considered by the first respondent while deciding the representation of the petitioner dated 03.02.2020. Without expressing anything with regard to the merits of the matter, this Court directs the first respondent to consider the petitioner's representation dated 03.02.2020 on merits and in accordance with law within a time frame to be fixed by this Court, as the petitioner is a senior citizen, aged at 87 years old.

10. For the foregoing reasons, this Court directs the first respondent to consider the petitioner's representation dated 03.02.2020 given under Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 against the 3rd and 4th respondents and pass final orders on merits and in accordance with law, after hearing all the necessary parties including the respondents 3 and 4 and other sons of the petitioner, within a period of 8 weeks from the date of receipt of a copy of this order.

11. With the aforesaid directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

srn

To

1. The District Collector,
O/o.The District Collector,
Chennai 600 001.
2. The Commissioner of Police,
O/o.The Commissioner of Police,
Vepery, Chennai 600 007.

+lcc to M/s.Tamizh Law Firm, Advocate, S.R.No.12348
+lcc to M/s.R.Thirumoorthy, Advocate, S.R.No.12557

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PL(CO)
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