



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

Writ Petition No.8881 of 2020

K.Ekambaram

.. Petitioner

Versus

1.The District Collector
Tiruvallur District
Tiruvallur.

2.The Inspector of Police
T-4, Maduravoyal Police Station
Maduravoyal, Chennai

3.E.Devaraj

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 & 2 to prevent the actions of the 3rd respondent, which are contrary to The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, as per petitioner's representation dated 02.03.2020 and 12.06.2020.

For Petitioner : Mr. Lakshmi Narayanan
for Mr. N. Elayaraja

For R1 & R2 : Mr. Stalin Abimanyu
Government Advocate

For R3 : Mr. Ramesh Vel
for M/s.Varadha Kamaraj

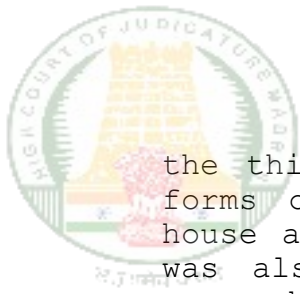
O R D E R

This writ petition has been filed by the petitioner praying to issue a Writ of Mandamus directing the respondents 1 & 2 to restrain the 3rd respondent from perpetrating any act towards the petitioner, which are contrary to The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, as per his representation dated 02.03.2020 and 12.06.2020.



2. According to the petitioner, he is the owner of certain agricultural properties in Vanagaram Village, Tiruvallur District, which were allotted to him by way of family 'Koorchit' entered into among the petitioner, his father and brother in the year 1982. While so, demanding a share in his property, the third respondent, who is his son, is frequently harassing and troubling the petitioner from the year 2007. It is also stated that the petitioner was attacked by the third respondent besides causing damage to the agriculture Oil engine in the year 2009. Therefore, the petitioner lodged complaint against the third respondent based on which a case in Crime No.230 of 2009 on 30.03.2009 under Sections 323, 441, 447 & 506(ii) of IPC was registered and investigation in the said case is still pending. It is also stated that the third respondent has filed a suit for partition in O.S. No. 279 of 2010 against the petitioner and the same is also pending. It is further stated that even on 15.05.1999, the National Highways Authority of India had acquired a portion of his lands admeasuring 12 cents but compensation has not been paid to him. Therefore, the petitioner filed a writ petition in W.P.No.10153 of 2010 before this Court and based on the direction given by this Court, the acquisition authorities disbursed the compensation amount payable to him in the year 2010. On coming to know about the amount paid to the petitioner, the third respondent threatened the petitioner to part with a portion of the amount thereof. Unable to bear the repeated harassment of the third respondent, the petitioner had given a letter dated 02.03.2020 to the District Collector, Tiruvallur for protection of his life and properties under the protection of Senior Citizen Act. Based on the same, the first respondent directed the 2nd respondent to conduct an enquiry. During the enquiry, on 12.06.2020, the petitioner as well as the third respondent participated. After conclusion of the enquiry, the third respondent gave an undertaking that he will not interfere with the petitioner collecting the rent from the tenants. Similarly, the petitioner was also made to give an undertaking that he will not alienate the property in his possession. According to the petitioner, inspite of giving such an undertaking, the third respondent periodically disturbed and harassed the petitioner in one form or the other. Therefore, the petitioner has come up with this writ petition to issue appropriate direction to the respondents 1 and 2 to give protection to his life and property.

3. The third respondent filed a counter affidavit contending that the petitioner married one Deivanai and out of such wedlock, four children, including the petitioner have born. It is further submitted that the mother of the third respondent and first wife of the petitioner namely Deivanai died in the year 1992 and thereafter, the petitioner married Kalavathi as his second wife. After the second marriage, the step mother of



the third respondent subjected the third respondent to various forms of harassment and ultimately he was driven out of the house and he was taken care of by his sisters and his marriage was also performed by his sisters. According to the third respondent, the petitioner in his affidavit filed in support of the writ petition has conveniently suppressed the death of his mother (first wife) and his second marriage with Kalavathy. According to the third respondent, the properties which are in possession of the petitioner are not his self-acquired properties but they are ancestral properties in which the third respondent and his sisters are also having a right. However, the petitioner is attempting to alienate the property in favour of his second wife and the son born to him through the second marriage, thereby, depriving the legitimate share of the third respondent in such properties. The third respondent also filed O.S. No. 279 of 2010 before the Sub Court, Poonamallee for partition and separate possession. According to the third respondent, he only demanded his legitimate share in the suit property and has not harassed the petitioner at any point of time. The petitioner has failed to shower love and affection towards the children born out of his wedlock with first wife and that is the panacea for all the woes. The third respondent therefore prayed for dismissal of the writ petition.

4. Heard the learned counsel for both sides. Today, when the matter is taken up for consideration, the learned counsel appearing for the third respondent, on instructions, submitted that the third respondent would not cause any hindrance to the petitioner and he is ready to ventilate his grievance in accordance with law.

5. The statement so made by the learned counsel for the third respondent is recorded. It is also open to the petitioner to approach the competent Civil Court under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, if any interference is caused by the third respondent.

6. In the light of the above, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar



av/rsh

To

1.The District Collector,
Tiruvallur District,
Tiruvallur.

2.The Inspector of Police,
T-4, Maduravoyal Police Station
Maduravoyal, Chennai

+1cc to M/s.N.Elayaraja, Advocate SR No.33256

+1cc to Mr.K.Varadhakamaraj, Advocate SR No.33367

W.P.No.8881 of 2020

SR II (CO)
PR (25/08/2021)