

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12544 of 2021

and

W.M.P.Nos.13323 & 13357 of 2021

G.Balaiyan

..Petitioner

Vs.

1.The District Collector-Cum-Appellate Authority,
Collectorate,
Tiruvarur & District.

2.The Revenue Divisional Officer,
RDO Office, Mannargudi & Taluk,
Tiruvarur District.

3.B.Pattabiraman

4.A.Baskaran

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to dispose an appeal Under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 sent by the petitioner on 22.01.2021 within a time fixed by the Hon'ble Court.

For Petitioner : Mr.P.Vijendran

For Respondents: Mr.S.John J.Raja Singh
Government Advocate
[For R1 & R2]

ORDER

The relief sought for in the present writ petition is to direct the first respondent to dispose of the appeal filed by the writ petitioner under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007Act.

2. The petitioner is a retired employee of Tamil Nadu State Transport Corporation. He has two daughters and a son, who is the third respondent in the writ petition. The petitioner states that he purchased a housing plot and constructed a house. All the children were educated and got married and living

separately. The petitioner relinquished his works to the third respondent / son and the third respondent is not taking care and further, usurped the property belongs to the petitioner forcibly by obtaining a settlement. Thus, the petitioner filed a petition before the 2nd respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and a sum of Rs.10,000/- (Rupees Ten Thousand only) was ordered as maintenance. Even the said amount of maintenance has not been paid by the third respondent. Thus, the petitioner filed an appeal before the first respondent under Section 16 of the said Act. Though the petitioner filed an application on 22.01.2021, for the past about five months, the petitioner is suffering and not receiving any maintenance amount from the third respondent / son.

3. The very purpose and object of the enactment namely, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is to give more attention to the care and protection for the older persons. Ageing has become a major social challenge and therefore, there is a need to give more attention on such aged persons. Undoubtedly, the parents can claim maintenance under the Code of Criminal Procedure. However, the procedure is time consuming as well as expensive. Thus, the legislators thought fit to enact the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, in order to mitigate the injustice caused to the older persons in the society.

4. In the present case, the petitioner raised an allegation against the third respondent that he is not only neglected him, but usurping the properties belong to the petitioner in a forcible manner by obtaining a settlement document. Even the maintenance amount ordered by the original authority to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) per month is not paid by the third respondent/son. Thus, the petitioner was forced to file an appeal before the first respondent under Section 16 of the said Act.

5. This Court is of the considered opinion that the applications as well as the appeals filed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, must be considered and disposed of by the competent authorities as expeditiously as possible. Prolongation and protraction of the application would cause prejudice to the livelihood of the elderly persons. The very purpose and object of the Act is to ensure that the aged persons are being maintained properly. Thus, the delay would result denial of right and amounts to violation of the constitutional provisions of right to live, which is a fundamental right. In order to ensure that the life of aged persons are protected and the fundamental right for life is taken care of by the State, any

application or appeal filed by the Senior citizen under the provisions of the Act is to be dealt with immediately and orders are passed and the execution must also be ensured by the competent authorities. Thus, the authorities competent are bound to act and in the event of keeping such applications pending, the same shall not only be construed as a lapse, the said action is to be considered as a dereliction of duty on the part of the competent authorities.

6. In view of these facts and circumstances, all the District Collectors across the State of Tamil Nadu must ensure that all applications and appeals filed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, are dealt with in a time bound manner and appropriate actions are initiated to protect the interest and welfare of senior citizen. It is a constitutional mandate and obligation on the part of the State to act and therefore, in the present case, the appeal filed by the petitioner is to be disposed of.

7. The Chief Secretary to Government of Tamil Nadu, Secretariat, Chennai - 600 009, is directed to issue circular to all the District Collectors to ensure that the applications and appeals filed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are disposed of by conducting an enquiry within a period of two months from the date of receipt of such applications or appeals. The circular in this regard would be imminent in order to protect the fundamental right of the Senior citizen for life, which is to be meaningful and decent.

8. In view of the facts and circumstances, the first respondent is directed to consider the appeal filed by the writ petitioner on 22.01.2021 and pass orders on merits and in accordance with law and by affording opportunity to all the parties within a period of eight weeks from the date of receipt of a copy of this order.

9. With this direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector-Cum-Appellate Authority,
Collectorate,
Tiruvarur & District.

2.The Revenue Divisional Officer,
RDO Office, Mannargudi & Taluk,
Tiruvarur District.

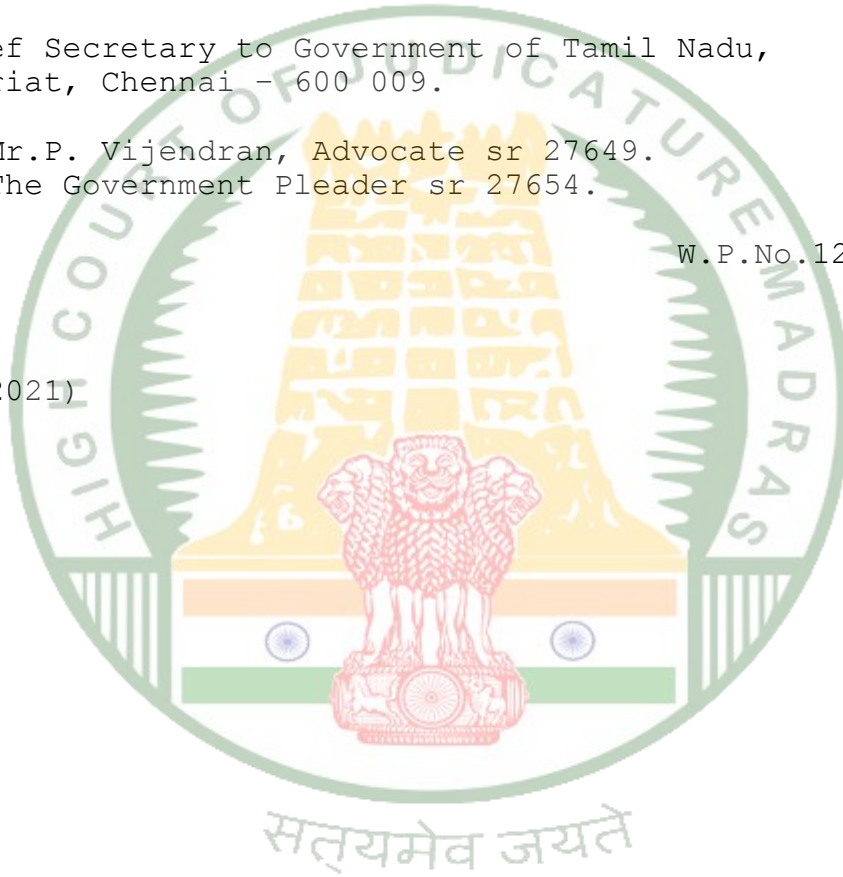
3.The Chief Secretary to Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

+1 CC to Mr.P. Vijendran, Advocate sr 27649.

+1 Cc to The Government Pleader sr 27654.

W.P.No.12544 of 2021

CP(CO)
SP(14/07/2021)



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