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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-10-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.31229 of 2016

Mrs.G.Maduravalli

.. Petitioner

vs.

1. The District Collector,
Thiruvallur Collectorate Office,
Thiruvallur.
2. The Presiding Officer,
Tribunal for Maintenance and Welfare of
Parents and Senior Citizens,
Social Welfare Department,
Thiruvallur Collectorate Office,
Thiruvallur.
3. The Divisional Revenue Officer,
Ambattur Taluk Office,
Ambattur.
4. The Revenue Divisional Officer,
Ambattur Taluk Office,
Ambattur.
5. The Thashildar,
Ambattur Taluk Office,
Ambattur.
6. Badrinarayanan (Died)
7. Manjula Badrinarayanan
8. B.Jyotsana
9. B.Srinath

(R-8 and R-9 substituted as legal
heirs of the deceased sixth respondent
Badrinarayanan as per order of Court
dated 25.10.2021 made in WMP
No.22749 of 2021 in WP 31229 of 2016)

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 08.06.2016 made in Na. Ka.No.1137/2016/A5 passed by the fourth respondent and the same was referred and communicated to the petitioner by the second respondent in Na. Ka.No.3932/A1/2015 dated 13.06.2016, quash the same and consequently direct the first respondent to appoint an Officer other than the Officer who already dealt with this subject matter to conduct the proceedings in the petitioner complaint dated 17.06.2015 as per Rule 3 (Form-A) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 in accordance with law.

For Petitioner : Mr.S.Vijayakumar
For Respondents-1, 3 to 5 : Mr.K.M.D.Muhilan,
Government Advocate.
For Respondent-2 : Tribunal
For Respondent-7 : Ms.D.Selvakumari

O R D E R

The order dated 08.06.2016 passed by the fourth respondent and the subsequent order dated 13.06.2016, are under challenge in the present writ petition.

2. The petitioner admittedly is a Senior Citizen, aged about 86 years. The petitioner owned a house property bearing new Door No.7, Old Door No.29, High School Road, Secretariat Colony, Venkatapuram, Ambattur Chennai-53, measuring an extent of 4,358 sq. ft.

3. The petitioner states that the house property was owned by the Ambattur Government Servants Cooperative Building Society and it was allotted in the name of the father of the writ petitioner late Mr.M.Govindan in the year 1954 and the father of the petitioner constructed a house during the year 1955.

4. The said late Mr.M.Govindan, father of the petitioner, executed a 'Will' in favour of the petitioner on 31.10.1984, reserving his lifetime enjoyment and the mother of the writ petitioner Smt.Thirumamagal vide a Will registered as



document No.45 of 1984. After the death of the parents, the petitioner became the absolute owner of the abovesaid property.

5. The petitioner states that he had three sons and four daughters. However, the sons have not taken care of the petitioner and finally she is forced to live with one of her daughter, namely, Smt.G.Ambujavalli,

6. The grievance of the petitioner is that she was forced to execute a Settlement Deed in favour of the sixth respondent, who is the son of the petitioner.

7. When the petitioner is having three sons and four daughters, she had settled the property in favour of the sixth respondent alone. This itself is raised as a ground by the learned counsel for the petitioner that the Settlement Deed was executed by way of coercion and there was an undue influence and various promises were made that the sixth respondent will take care of the petitioner till her death.

8. Based on such influence, the Settlement Deed was executed and contrary to the promise, the sixth respondent had driven the petitioner out of her own house, which was given as a gift by her father late Mr.M.Govindan. This prompted the petitioner to approach the second respondent-Tribunal under the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizen Act, 2009 [hereinafter referred to the as the 'Act', in short].

9. The second respondent forwarded the complaint to the fourth respondent-Revenue Divisional Officer, Ambattur Taluk Office, Ambattur, who in turn conducted an enquiry and pass the impugned order.

10. The learned counsel for the petitioner contended that the very reasons stated for rejection is in violation of the provisions of the Act. When the petitioner submitted an application in a prescribed format, more specifically in Form 'A' under Rule 3 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 [hereinafter referred to as the 'Rules', in short], the impugned order states that the petitioner has not filed any application under the provisions of the said Act. Thus, the very finding is untenable. Further the application was rejected on the ground that the petitioner is receiving a family pension.

11. The learned counsel for the petitioner contended that valuable property of the petitioner, situate at Ambattur, has been taken away by the respondents 6 and 7 by way of undue influence and committing an act of fraud. The seventh respondent has given a statement before the Competent Authorities that



respondents 6 and 7 will take care of the petitioner and further made a promise that they will share the valuable property with the petitioner as well as with the daughters of the petitioner.

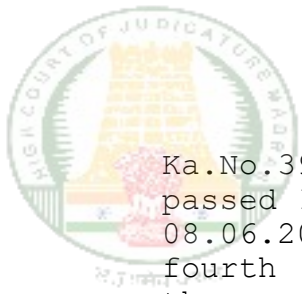
12. In this context, it is contended that Settlement was executed by the petitioner believing the promises made by the respondents 6 and 7. But the respondents 6 and 7 mercilessly deserted the petitioner and they have gone to the extent of behaving in an unusual manner by not even allowing the petitioner to enter into her own house, which was given to her by her father.

13. Perusal of the impugned order reveals that the fourth respondent misconstrued the provisions of the Act and rejected the same merely on the ground that the petitioner had not submitted any application under the Senior Citizen Act. The petitioner has not dealt with the claim of the petitioner made under Section 23 of the Act also. The Authorities Competent on receipt of any such application is duty bound to deal the issues by conducting proper enquiry. The Revenue Authorities are conducting an inquiry and exercising the powers akin to that of the Civil Court of Law and therefore, they are expected to frame and decide the issues based on documents and evidences, including oral evidences.

14. This being the scope of the enquiry to be conducted under the provisions of the Senior Citizen Act, the Authorities Competent are not expected to decide the issues in a routine manner like that of an administrative decision. It is a quasi judicial power, which is conferred to the Authority and such power is to be exercised judiciously and to provide justice to the parties, who are approaching/filing application under the provisions of the Maintenance Act.

15. Thus, this Court do not find any justification in rejecting the application filed by the petitioner. Section 8 of the Act, enumerates 'summary procedure in case of inquiry' wherein sub-section (2) to Section 8 of the Act, stipulates that "the Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed, and the Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973".

16. This being the scope of the enquiry to be conducted by the authorities, the order impugned and the reasons furnished are not in consonance with the provisions of the Senior Citizen Act. Thus, the impugned order passed by the second in Na.



Ka.No.3932/A1/2015 dated 13.06.2016 and the impugned order passed by the fourth respondent in Na. Ka.No.1137/2016/A5 dated 08.06.2016 are quashed and the matter is remitted back to the fourth respondent for conducting a fresh enquiry by following the procedures as contemplated under the provisions of the Senior Citizen Act and accordingly, decide the issues on merits and in accordance with law and by affording an opportunity to all the parties. The abovesaid exercise is directed to be done, within a period of four months from the date of receipt of a copy of this order. The petitioner is directed to file further application/complaint or document or evidences, if any, before the fourth respondent-Competent Authority.

17. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The District Collector,
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Tribunal for Maintenance and Welfare of
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3. The Divisional Revenue Officer,
Ambattur Taluk Office,
Ambattur.
4. The Revenue Divisional Officer,
Ambattur Taluk Office,
Ambattur.



5. The Thashildar,
Ambattur Taluk Office,
Ambattur.

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+2ccs to M/s.A.Sumathy, Advocate, S.R.No.54890

+1cc to the Government Pleader, S.R.No.55432

WP 31229 of 2016

AK-II (CO)
SU(10/11/2021)