



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NO. 19038 OF 2021

A. Shanmugam

.. Petitioner

Versus

1. The Collector  
Thirupathur District  
Thirupathur
2. The Revenue Divisional Officer  
Thirupathur District  
Thirupathur
3. Sivakumar
4. Kalavathy

.. Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner representation dated 16.08.2021, under Section 4 and 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.Krishnaraja  
Government Counsel for R1-R2

Mr.R.Subramanian for R3 and R4

O R D E R

The present writ petition has been filed for issuance of Writ of Mandamus seeking to direct the respondents 1 and 2 to consider the petitioner's representation dated 16.08.2021, under Sections 4 and 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



2. According to the petitioner, he married one Gnanammal and they have 6 female and 5 male children. All the daughters have got married and they are living happily. The male children are (i)Ponnusamy (ii)Muthuvel (iii)Rajarathinam (iv)Subramani and (v)Palani. In the year 1979, the petitioner along with the first three sons jointly purchased a constructed property at Chinnagrama Street, Ambur, besides purchasing vacant lands in Sengounder Street, Ambur and Krishnapuram. All the properties were purchased in the name of the first son viz., Ponnusamy. Subsequently, they decided to partition the said properties, as per which, the first son took the property at Sengounder Street, the second son got the property situated at No.194, Thottam Street, comprised in S.No.67, Krishnapuram; and the third son took the property at Kaspachinnagrama Street. Accordingly, the first son Ponnusamy executed a registered settlement deed on 31.08.2012 in favour of the third respondent. Without executing the settlement deed in favour of the second son Muthuvel, the first son died on 19.09.2013 and taking advantage of the same, the respondents 3 and 4 / wife and son of the first son, forced the petitioner and the second son Muthuvel to vacate the house with the help of henchmen. It is the grievance of the petitioner that he is aged about 94 years and he is living with his second son Muthuvel, since 1995; though the property stands in the name of the first son, the petitioner paid all the loan dues and taxes; and the respondents 3 and 4 are now attempting to sell the property. Finding no other option, he gave a representation to the respondents 1 and 2 on 16.08.2021 requesting to take necessary action against the respondents 3 and 4 and restore the property to him. Since no action was taken on the same, the petitioner has filed this writ petition for the aforesaid relief.

3. Upon notice, the respondents 3 and 4 filed a detailed counter affidavit, denying the allegations stated in the writ petition. According to them, the first son of the petitioner / husband and son of the respondents 3 and 4 viz., Ponnusamy was an employee of Canara bank and out of his income, he purchased the property in S.No.4/1, Ward D, Block 4, T.S.No.1/1, house measuring 960 sq.ft. under a registered sale deed dated 23.03.1987, besides purchasing a vacant site and putting up construction; and he executed a registered will on 17.05.2013 bequeathing the said properties to the third respondent. It is further stated that after the death of the said Ponnusamy, the second son of the petitioner Muthuvel and his wife threatened the respondents 3 and 4 to vacate the house, which fact was not known to the petitioner. Stating so, they sought to dismiss this writ petition.

4. Considering the rival submissions, this court, without expressing any opinion on the merits of the case, directs the second respondent to consider the application dated 16.08.2021 filed by the petitioner under the Maintenance and



Welfare of Parents and Senior Citizens Act, 2007, and pass appropriate orders, on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioner as well as the respondents 3 and 4, within a period of six weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition stands disposed of.  
No costs.

Sd/-  
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

dhk

To

1. The Collector  
Thirupathur District  
Thirupathur

2. The Revenue Divisional Officer  
Thirupathur District  
Thirupathur

+1cc to Mr.R.Subramanian, Advocate, S.R.No.52294

+1cc to the Government Pleader, S.R.No.52801

WP No. 19038 of 2021

PA(CO)  
RLP(26/10/2021)