



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.09.2021

CORAM:

WEB COPY

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P. No. 19832 of 2021

K.Kalyani

... Petitioner

-Vs-

1. The District Collector,
Mayiladuthurai District.
Mayiladuthurai.
2. The Revenue Divisional Officer,
Nagapattinam, SH-23, Mayiladuthurai,
Thiruthuraipoondi Road, Mayiladuthurai,
Mayiladuthurai - 609 001.
3. The Sub Registrar-Joint R/1,
30 Avaiyambalpuram, Town Extension,
Mayiladuthurai - 609 001.

4. K.Ilangovan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the second respondent to consider the petitioner's representation dated 17.07.2021 within a stipulated time.

For Petitioner : Mr.M.Balaji.

For Respondents : Mr.Yogesh Kannadasan
Government Advocate for R1 to R3

O R D E R

This Writ Petition has been filed to direct the second respondent to consider the petitioner's representation dated 17.07.2021 within a stipulated time.

2. The case of the petitioner is that she is an 80 years old senior citizen residing at No.7, Ram Prasad Apartment, 18 Temple Avenue, Saidapet, Chennai and her husband Ramaiyan passed away in the year 2018 and they have no children out of their wedlock and as such they have treated the children of the petitioner's eldest sister as their own children and they have adopted one Thanigaimani, who is the son of the petitioner's sister.



3. The petitioner submits that her eldest sister and her children are living in USA. The petitioner and her husband were living at Thathampettai Pazhur till 2001 and both of them were retired from Government services. While that being so, after the demise of the petitioner's father, the petitioner's mother was suffering a lot without the help and assistance of the petitioner's brothers, she had sold the house at Thathampettai Pazhur and the petitioner and her husband came to Mayiladuthurai and constructed a house at Door No.116, Madura Nagar, Senthangudi, Mayildauthurai and lived in the said house. The petitioner's brothers namely Thangadurai and Ilangovan and her younger brothers are running an automobile shop at Mayiladuthurai.

4. It is further submitted that the petitioner's brother Ilangovan who is the fourth respondent herein and Thangadurai often used to tell false stories stating that they are suffering huge financial crisis and cheated the petitioner by taking more money and jewels on false representations, the petitioner had to clear the debts taken from third parties for helping the said brothers and she had to pay the interest. After the demise of the petitioner's mother and husband, the petitioner was living alone without any help and have let out the up-stair portion for rent. The tenant was forcibly evicted by the petitioner's brothers and the son of the petitioner's brother namely Thangadurai had occupied the said portion without even paying any rent to the above said portion.

5. In the above said circumstances, the petitioner's brothers threatened and forced the petitioner and opened the bank locker and took away the jewels and some documents relating to the house kept inside the locker. They also forced the petitioner to execute a document for transferring the house in their favour. But the petitioner wanted to give the said house to the adopted son namely Thanigaimani and they started beating the petitioner. When the neighbours came to rescue the petitioner, they were also driven out from that place.

6. The petitioner further states that on 15.05.2020, her brothers came to the house and pushed her down by kicking on the hip, as a result of that her hip was broken for which the petitioner was admitted at Vairam Hospitak at Mayiladuthurai and a different story was posted before others stating that the petitioner fell down in the house due to slippery on the floor by suppressing the real cause. Thereafter, the petitioner got discharged from the hospital and was kept in a unconscious state and the treatment was taken care by the petitioner's sister from USA. The petitioner further submits that the phone which the petitioner was holding to talk to her sister was snatched away by the brothers and as a result of which the petitioner could not contact her sister in USA.



7. It is further submitted that taking advantage of the unconscious circumstances of the petitioner on 31.08.2020, the petitioner's brother Ilangovan executed a forged and false document by way of a Settlement Deed in his favour by transferring the petitioner's house property bearing Door No.116, Madura Nagar, Mayiladuthurai and the said document has not been executed by the petitioner in good health and consciousness. The petitioner was not aware of the contents contained in the said document as she is having poor eye sight and could not read. It is further stated that she wanted to execute the said house in favour of the adopted son Thanigaimani but the brothers taking advantage of the old age, created a false and forged document and the petitioner wants to cancel the said forged document. It is also further seen that the petitioner's sister came to India by way of Emergency VISA since the petitioner was not keeping well and taken her to Geri Care Hospital and given emergency treatment and her life was saved by her sister. It is pertinent to point out that the brothers has pushed the petitioner from bed on many occasions as a result of which petitioner's spinal cord was broken and she is not able to walk and living with the help of a wheel chair.

8. The petitioner further submitted that she sent a representation to the respondents on 17.07.2021 to cancel the settlement deed vide Document No.1364 of 2020 dated 31.08.2020 registered before the Sub Registrar-Joint R/1 Office, Mayiladuthurai and restore the said house property to her custody but even till date no action has been taken by the respondents and hence, left with no alternate remedy, the petitioner has come before this Court with the aforesaid prayer.

9. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the second respondent to consider the petitioner's representation dated 17.07.2021 and dispose of the same within a stipulated time that may be framed by this Court.

10. Heard Mr.M.Balaji, learned counsel for the petitioner and Mr.Yogesh Kannadasan, learned Government Advocate appearing for the first to third respondents.

11. Having regard to the limited scope of the prayer that is now sought for in this Writ Petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present Writ Petition, the Writ Petition is disposed of, with a direction to the second respondent, i.e., Revenue Divisional Officer to consider the petitioner's representation dated 17.07.2021 and pass appropriate orders,



on merits and in accordance with law, after issuing notice to the petitioner and respondents within a period of ten weeks from the date of receipt of a copy of this order. The petitioner being the senior citizen who is 80 years old, she shall be called only at the time of enquiry and not on all occasions due to her living condition in the wheel chair as handicapped.

12. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vji
To

1. The District Collector,
Mayiladuthurai District.
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+1 cc to Mr.P.Kumar, Advocate Sr.NO. 47754
+1 cc to Government Pleader Sr.NO. 47870

W.P. No. 19832 of 2021

SMI (CO)
A.SK(10.11.2021)