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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.26350 OF 2021

S.Janaki

... Petitioner

vs.

1. The District Magistrate/Protection Officer,
The Protection of Women from Domestic Violence Act 2005,
O/o The District Social Welfare Office,
Collectorate Building, B-Clock, 4th Floor,
Sathuvacherry, Vellore, Vellore District.
2. The Superintendent of Police,
O/o Superintendent of Police,
Ranipet, Ranipet District.
3. The Inspector of Police,
O/o The All Women Police Station,
Arakkonam Town Police Station Campus,
Arakkonam Tk, Ranipet District.
4. S.Krishnaiah.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the Learned Magistrate, Arakkonam, to consider the petitioner's request to grant interim maintenance and other relief as requested in the petitioner's petition dated 22.08.2021 given to the 1st respondent who forwarded the same to the learned Judicial Magistrate, Arakkonam.

For Petitioner	: Mr.S.Pushpakaran
For 1 st Respondent	: Mrs.C.Sangamithirai, Special Government Pleader
For Respondents 2 &3	: Mr.R.Murthi, Government Advocate (Crl.Side)



ORDER

The present petition has been filed seeking issuance of a Writ of Mandamus directing the Magistrate to consider the petitioner's request and grant relief pursuant to the petitioner's representation dated 22.08.2021.

2. Mrs. C. Sangamithirai, Special Government Pleader, takes notice for the 1st respondent and Mr. R. Murthi, Government Advocate (Crl.Side) takes notice for respondents 2 & 3.

3. It is the case of the petitioner that she was married to the 4th respondent on 22.6.1981, but ever since the marriage, the 4th respondent has been neglecting her till his superannuation. The petitioner is not being taken care of by the 4th respondent in spite of receiving his pension and rental income, which led the petitioner to file the petition on 20.03.2021 and 27.03.2021 seeking protection order, residential order, maintenance order, medical expenses and also for police protection under the various provisions of the Domestic Violence Act. In fact, the petitioner has also raised objection with regard to alienation of property by the 4th respondent. The petitioner had earlier filed W.P. No.11942 of 2021 in which this Court had passed certain orders pursuant to which the matter has been registered as DVC No.3/2021 by the learned Judicial Magistrate. Since the petitioner is suffering to maintain herself and the 4th respondent is not providing any means to sustain his wife, viz., the petitioner, the present petition has been filed for the relief supra.

4. Learned counsel appearing for the petitioner submits that since marriage, the petitioner is not being taken proper care of and even at her old age, she is unable to make both ends meet and the 4th respondent is neither paying money nor taking care of her and, therefore, prays that suitable direction as prayed for may be issued.

5. On the above contention, this Court heard the learned Special Government Pleader appearing for the 1st respondent and Mr. R. Murthi, learned Government Advocate (Crl.Side) appearing for respondents 2 & 3 and perused the materials available on record.

6. Though very many grounds have been raised in the writ petition contending that the petitioner has not been properly maintained by the 4th respondent, however, the fact remains that the petitioner was married to the 4th respondent on 22.6.1981 and



that the marriage is still surviving. The present domestic violence is alleged only in the year 2021. Though such an allegation is levelled, however, the petitioner has not placed any material before this Court to substantiate the same. In the absence of the same, this Court, under Article 226 of the Constitution, cannot enter into issues which are disputed questions. In such a backdrop, the relief sought for by the petitioner cannot be acceded to. Further, the relief for the petitioner lies before the appropriate Court by filing appropriate petition under the Domestic Violence Act or any other provision including Criminal Procedure Code and the petitioner cannot invoke the extraordinary jurisdiction of this Court to claim the relief. If at all the petitioner has grievance with regard to domestic violence, the petitioner can file appropriate petition under relevant provision before the appropriate forum and petition under Article 226 is not maintainable.

7. Therefore, this Court, without expressing any opinion on the merits of the issue, disposes of this writ petition granting permission to the petitioner to file appropriate petition under the Domestic Violence Act or any other provision before the concerned jurisdictional Judicial Magistrate. On such petition being filed, Judicial Magistrate concerned shall consider the same and pass appropriate orders in accordance with law as expeditiously as possible.

8. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No Costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The District Magistrate/Protection Officer,
The Protection of Women from Domestic Violence Act 2005,
O/o The District Social Welfare Office,
Collectorate Building, B-Clock, 4th Floor,
Sathuvacherry, Vellore, Vellore District.
2. The Superintendent of Police,
O/o Superintendent of Police,
Ranipet, Ranipet District.



3. The Inspector of Police,
O/o The All Women Police Station,
Arakkonam Town Police Station Campus,
Arakkonam Tk, Ranipet District.

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+1cc to Mr.S.Pushpakaran, Advocate, S.R.No.66486

+1cc to the Government Pleader, S.R.No.66611

W.P.No.26350 of 2021

PL(CO)
RLP(28/01/2022)