



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12354 of 2020

and

W.M.P. (MD)Nos.10563 and 10564 of 2020

WEB COPY

Gurunathan

... Petitioner

-Vs-

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The District Revenue Officer,
Thanjavur,
Thanjavur District.

3.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.

4.The Sub Inspector of Police,
Patteswaram Police Station,
Kumbakonam Taluk,
Thanjavur District.

5.Neelavathi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to proceedings of the 3rd respondent made in Na.Ka.No.892/2019/A4 dated 25.04.2020 and quash the same as illegal.

For Petitioner : Mr.R.Murali

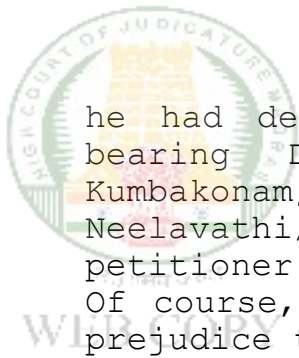
For Respondents : Mr.C.Ramar,
Additional Govt. Pleader for R1 to R4.
Mr.R.Prakash for R5.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is none other than the son of the fifth respondent. The fifth respondent filed a petition under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, before the Revenue Divisional Officer, Kumbakonam. The fifth respondent herein made certain allegations against the petitioner herein. The Revenue Divisional Officer, Kumbakonam, conducted an enquiry and passed the impugned order dated 25.04.2020. In which,

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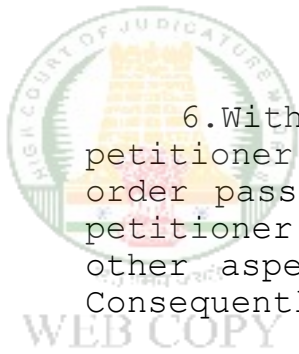


he had declared that the petitioner cannot reside in the house bearing Door No.3/557, Mela Thearu, Thanampadukai Village, Kumbakonam, without permission of his mother namely., Neelavathi/fifth respondent herein. He also ordered that that the petitioner should not harass the fifth respondent in any manner. Of course, he also made it clear that this order would be without prejudice to the rights of the parties in the civil proceedings.

3.When the matter came up for admission before this Court, this Court extracted an undertaking before the petitioner that at no point of time, he will harass his mother in any manner. The petitioner's counsel states that this undertaking can be made absolute.

4.The learned counsel appearing for the fifth respondent vehemently contends that the petitioner has approached this Court with unclean hands. He points out that the fifth respondent had already filed O.S.No.219 of 2019, before the Principal District Munsif Court, Kumbakonam and that she had also obtained an order of interim injunction in I.A.No.436 of 2019. The learned counsel would point that the writ petition suffers from total suppression of material facts. It is also pointed out both by the fifth respondent's counsel as well as the petitioner's counsel that the petitioner has also moved the District Revenue Officer questioning the impugned order.

5.At this stage, the learned counsel for the petitioner states that he is not challenging the impugned order on any factual aspect. He is raising only a point of jurisdiction. According to him, the Revenue Divisional Officer can pass an order for payment of maintenance under Section 9 of the Act. He can also nullify any property transaction under Section 23 of the Act. The case on hand does not fall under either of the provisions. The Revenue Divisional Officer has no power under law to direct the eviction of the writ petitioner from the house in question. I called upon the learned counsel for the respondents to draw my attention to any statutory provision, which authorizes the Revenue Divisional Officer to pass an order of eviction. The learned counsels are unable to draw my attention to any such provision. Therefore, I have to necessarily sustain the contentions made by the learned counsel appearing for the writ petitioner. Of course, the learned counsel appearing for the fifth respondent would ask me as regards of the implication of the interim order of injunction obtained by the fifth respondent in the civil proceedings. I must make it clear that allowing this writ petition will not have bearing on the interim order obtained by the fifth respondent in the Civil Court. It is for the fifth respondent to enforce the injunction order, she had obtained against the writ petitioner in the manner known to law.



6. With these observations and recording the undertaking of the petitioner that he would not harass the fifth respondent, the order passed by the third respondent directing the eviction of the petitioner is alone set aside and the impugned order is sustained in other aspects. The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1. The District Collector,
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Thanjavur.
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Thanjavur,
Thanjavur District.
3. The Revenue Divisional Officer,
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Thanjavur District.
4. The Sub Inspector of Police,
Patteswaram Police Station,
Kumbakonam Taluk,
Thanjavur District.

+1 CC to M/s.M.SURESH KUMAR, Advocate (SR-610[F]
dated 08/01/2021)

+1 CC to M/s.SPL GP (SR-701[F] dated 08/01/2021)

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MJ(CO)

KB(04.02.2021) 3P 7C

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