



W.P.No.17481 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

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Chinnanan

... Petitioner

Versus

1. The District Collector,
District Collector Office,
Tiruchengode Road,
Namakkal District,
Tamil Nadu – 637 001.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Namakkal District,
Tamil Nadu – 637 214.
3. The Sub Registrar,
Senthamangalam Sub Registrar Office,
Namakkal District
Tamil Nadu – 637 409.

4. Logambal

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the second respondent to enquire and pass order on the application dated 03.03.2022 under “The Maintenance and Welfare



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of Parents and Senior Citizens Act, 2007”, within a time frame to be fixed by this Court.

For Petitioner : Mr.C.Raghavan
For Respondents : Mr.B.Vijay,
AGP
For R.1 to R.3

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to enquire and pass orders on the application dated 03.03.2022 under “ The Maintenance and Welfare of Parents and Senior Citizens Act, 2007”, within a time frame to be fixed by this Court.

2. Heard Mr.C.Raghavan, learned counsel for the petitioner and Mr.B.Vijay, learned Additional Government Pleader accepts notice on behalf of the official respondents 1 to 3. By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

3.The learned Additional Government Pleader appearing for the official respondents, on instructions, submits that the application submitted by the petitioner earlier, for the same relief before the second respondent, was



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rejected by order dated 22.12.2021. He would submit that the present writ petition is not maintainable and the only remedy available to the petitioner is to file a statutory appeal if aggrieved by the order dated 22.12.2021.

4. Learned counsel for the petitioner would submit that since the petitioner's daughter, the fourth respondent herein had already sold the property without petitioner's knowledge, the earlier application, filed by the petitioner, which came to be rejected on 22.12.2021, has become infructuous and that is the reason for the petitioner to submit a fresh application dated 03.03.2022 which is the subject matter of this writ petition.

5. In the order dated 22.12.2022 passed by the second respondent earlier, the petitioner has been directed to approach either the City Civil Court or approach the District Registrar.

6. Learned counsel for the petitioner, on instructions, would submit that the petitioner is ready and willing to file a statutory appeal as against the order dated 22.12.2021 passed by the second respondent.



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7. Since the petitioner is a senior citizen and is willing to file a statutory appeal as against the order dated 22.12.2021, this Court is of the considered view that he must be granted opportunity to file a statutory appeal before the first respondent.

8. It is brought to the notice of this Court by the learned counsel for the petitioner that the petitioner has already given a representation to the first respondent as against the order dated 22.12.2021 on 15.03.2022. The said statement is recorded, however, no acknowledgement for having filed such a representation is enclosed along with this writ petition. Hence, the petitioner will have to file a fresh statutory appeal.

9. No prejudice would be caused to the respondents if the petitioner is permitted to file a statutory appeal if aggrieved by the order dated 22.12.2021 passed by the second respondent.



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10. For the foregoing reasons, this Court directs the petitioner to file a statutory appeal before the first respondent as against the order dated 22.12.2021 passed by the second respondent within a period of one week from the date of receipt of a copy of this order and on receipt of such statutory appeal, the first respondent shall consider and pass orders on merits and in accordance with law after affording a fair hearing to the petitioner, including granting him the right of personal hearing within a period of twelve weeks from the date of receipt of a copy of this order.

11. The statutory appeal shall be entertained by the first respondent if such appeal is filed by the petitioner within a period of one week as indicated supra and the question of limitation will not arise under Section 16(1) of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

12. With the above direction, the writ petition is disposed of. No costs.

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sr
Index: Yes/No
Speaking Order/Non-Speaking Order



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ABDUL QUDDHOSE, J

sr

To

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