



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD).No.2158 of 2022

V.Krishnamoorthy

...Petitioner

Vs.

1.The Superintendent of Police,
Thanjavur District,
Thanjavur.

2. The Inspector of Police,
Tamil University Police Station,
Thanjavur.

3. K.Vasudevan

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 to direct the 2nd respondent to take the possession and enjoyment of the upstairs house (1st Floor) property in Door No.94, Palaniyappa Nagar, Naanjikottai Road, Thanjavur from the custody of the 3rd respondent and handover to the petitioner as per the order in 7100/2018/A3 dated 03.10.2020 of the RDO, Thanjavur under Section 6(6) The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 confirmed by the District Collector, Thanjavur in Na.Ka No.31556/2021/G2 dated 09.08.2021 by considering the petitioner's representation dated 08.03.2021, within the period stipulated by this Court.

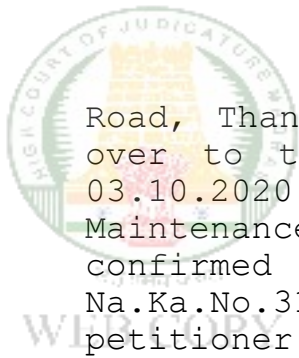
For Petitioner : Mr.A.Haja Mohideen

For R1 to R2 : Mr.B.Thanga Aravindh
Government Advocate

For R3 : Mr.K.Veilmuthu

ORDER

The Writ Petition has been filed in the nature of Mandamus, seeking a direction to the first respondent to direct the second respondent to take the possession and enjoyment of the upstairs house (1st floor) property in D.No.94, Palaniyappa Nagar, Nannjikottai



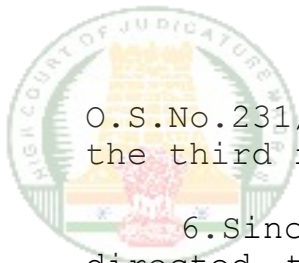
Road, Thanjavur from the custody of the third respondent and hand over to the petitioner as per the order in 7100/2018/A3, dated 03.10.2020 of the RDO, Thanjavur under Section 6(6) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 confirmed by the District Collector, Thanjavur in Na.Ka.No.31556/2021/G2, dated 09.08.2021 by considering the petitioner's representation, dated 08.03.2021.

2.The petitioner is a senior citizen and he gave birth to one daughter and two sons. The third respondent is one of his sons. He was worked in Food Corporation of India and with his earnings and savings purchased the subject house site and after obtaining housing loan, he had put up construction. Thereafter, he got retired in the year 2005. While being so, the third respondent occupied the first floor of the building and gave all sorts of trouble to the petitioner. The third respondent in a drunken mood used to attack the petitioner, his wife and unmarried daughter and subsequently, caused injuries. Therefore, the petitioner was constrained to lodge a complaint as against his own son, namely, the third respondent and the same has been registered in Crime No.131 of 2017 for the offences under Sections 294(b) and 323 of IPC on the file of the second respondent and it is pending for investigation. Again the third respondent and his wife attacked the petitioner and other family members. Then, the petitioner again lodged a complaint against the third respondent and his wife in petition No.467 of 2018 before Vallam Police Station.

3.Then, the petitioner had approached the concerned Revenue Divisional Officer under Section 3 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. After enquiry, the Revenue Divisional Officer had passed an order to take possession and enjoyment of the first floor of the subject house situated in Door No.94, Palaniyappa Nagar, Naanjikottai Road, Thanjavur, from the custody of the third respondent and hand over to the petitioner, by order dated 03.10.2020, in proceedings No.7100/2018/A3 and also directed the third respondent to pay monthly maintenance of Rs.5000/- to the petitioner and his wife.

4.However, the said order was challenged by the third respondent before the District Collector, Thanjavur. After completion of enquiry, the same was dismissed by order dated 09.08.2021. Thereafter, the third respondent challenged the said order by way of the Writ Petition before this Court in W.P(MD) No.14843 of 2021 and it is pending on this file of this Court without any interim order.

5.Therefore, the petitioner had given a representation to the first respondent to execute the order passed by the Revenue Divisional Officer, dated 03.10.2020 and it is pending without taking any action as against the third respondent to vacate the



O.S.No.231/2017 before the District Munsif Court, Thanjavur, against the third respondent and the same is pending.

6.Since the dispute is between the father and son, this Court directed the parties for their appearance today(10.03.2022). The petitioner and his unmarried daughter, aged about Forty years and the third respondent are present before this Court.

7.This Court enquired the petitioner and he deposed that after his retirement, he could not able to arrange marriage for his only daughter, aged about 42 years. His son, namely, the third respondent is running an electric and battery shop and his wife is an elected councillor in the local body election. He is very much politically influenced person and daily he has tortured him with their dire consequences. In respect of crime against the third respondent, he has indulged in the same criminal activities as against his own parents. Now, the petitioner intended to sell the house, so that he can arrange marriage for his daughter. Therefore, the third respondent prevented the petitioner to sell the house and neglected the unmarried daughter to get marriage instead he arranged marriage for the petitioner's daughter and spent huge money. The said property is self financed by the petitioner and not even a single penny shared by the third respondent even while purchasing the house and also while constructing the building.

8.The third respondent also appeared before this court and deposed that he never failed to take care of his parents and he has one son and daughter, except the subject house he has no other place for his residence. He is ready to pay the monthly maintenance of Rs.5,000/- and requested to modify the order passed by the Revenue Divisional Officer.

9.It is very painful to state that the father is crying before this Court since his own son neglected him and failed to maintain him. That apart, he has also beaten him and very often used to have quarrel with him. Now, the petitioner is very much struggling with the financial crisis and he could not able to arrange marriage for his daughter, who is aged about 42 years. Therefore, the order passed by the Revenue Divisional Officer has rightly confirmed by the District Collector, Thanjavur, in appeal by order dated 09.08.2021. Though the third respondent challenged the said order before this Court in W.P(MD)No.14843 of 2021, it is pending without any interim order. Therefore, there is absolutely no impediment for execution of the order passed by the Revenue Divisional Officer and confirmed by the District Collector , Thanjavur.

10.In view of the above, the second respondent is directed to implement the order passed by the Revenue Divisional Officer, Thanjavur, dated 03.10.2020, in proceedings No.7100/2018/A3, within a period of two weeks from the date of receipt of a copy of the order. The first respondent is directed to monitor the



implementation done by the second respondent and ensure that whether the second respondent complete the above direction.

11. With the above direction, this Writ Petition is allowed. No costs.

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Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Superintendent of Police,
Thanjavur District,
Thanjavur.

2. The Inspector of Police,
Tamil University Police Station,
Thanjavur.

+1 CC to M/s.C.SURESH KANNAN, Advocate (SR-11759[F] dated
14/03/2022)

W.P (MD) .No.2158 of 2022
10.03.2022

RD(28.03.2022) 4P 4C