



W.P(MD)Nos.7484 and 8468 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.7484 and 8468 of 2022

W.P.(MD)No.7484 of 2022:-

S.Gayathri

... Petitioner

Vs.

**1.The District Collector,
Madurai District,
Madurai.**

**2.The District Revenue Officer,
Madurai.**

**3.The Revenue Divisional Officer/
Presiding Officer of Senior Citizens's
Maintenance and Welfare Tribunal,
Madurai.**

**4.The Inspector of Police,
Thiruppalai Police Station,
Madurai.**

5.D.Ambikapathy

6.A.Subramaniam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order of the 3rd Respondent in Moo.Mu.No.2621/2021/J dated



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12.11.2021 and the order in Appeal passed by the 1st Respondent in Na.Ka.No. 994/2022/C5 dated 01.04.2022 and quash the same as illegal.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1 to R4.
Mr.A.Haja Mohideen for R5.
Mr.M.Mohammed Sharbudeen for R6.

W.P.(MD)No.8468 of 2022:-

D.Ambikapathy

... Petitioner

Vs.

- 1.The District Collector,
Office of District Collector,
Madurai District,
Madurai.
- 2.The Commissioner of Police,
Office of Commissioner of Police,
Alagarkovil Main Road,
Madurai.
- 3.The Revenue Divisional Officer/
Tribunal of Maintenance and Welfare of Parents
and Senior Citizens,
Office of the Revenue Divisional Officer,
Madurai District,
Madurai.
- 4.The Inspector of Police,
Thirupppalai Police Station,
Thiruppallai,
Madurai District.



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5.A.Gayathri

6.A.Subramaniyan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent to direct the 4th respondent to execute the order of the 3rd respondent in Mu.Mu.No. 2621/2021J dated 12.11.2021 Under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 confirmed by the 1st respondent in Na.Ka.No.994/2022/C5 dated 01.04.2022 and handover the possession and enjoyment in Door No.1/140-4-1, Subashini Nagar, 2nd North Street, Suryanagar, Madurai Town from the custody of the 5th Respondent to the petitioner by considering her representation dated 15.12.2021 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1 to R4.
Mr.M.Kannan for R5.
Mr.M.Mohammed Sharbudeen for R6.

COMMON ORDER

Heard the learned counsel on either side.

2.Dr.D.Ambikapathy moved the Maintenance Tribunal, Madurai under the provisions of the Maintenance and Welfare of Parents and Senior Citizens



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Act, 2007. The order dated 12.11.2021 was passed. The said order directs eviction of Gayathri, daughter-in-law of Dr.D.Ambikapathy. Interestingly, Gayathri was not made as a party to the proceedings. Aggrieved by the order dated 12.11.2021 passed by the Maintenance Tribunal, Gayathri filed an appeal before the District Collector, Madurai. The District Collector, Madurai informed Gayathri that since she was not a party to the proceedings before the Maintenance Tribunal, her request cannot be accepted. Dr.D.Ambikapathy filed W.P.(MD)No.8468 of 2022 seeking implementation of the order passed by the Maintenance Tribunal. Gayathri filed W.P.(MD)No.7484 of 2022 questioning the order passed by the Maintenance Tribunal. Since both the writ petitions are interlinked, they are being heard and disposed of by this common order.

3.The order passed by the Maintenance Tribunal is vulnerable on two counts. An order adverse to Gayathri has been passed without hearing her or issuing notice to her. As per the statutory scheme governing the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a senior citizen cannot get any relief against the daughter-in-law. A daughter-in-law is not obviously a child of a senior citizen. The expression “relative” has been defined in Section 2(g) of the Act as meaning any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death.



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Dr.D.Ambikapathy is not a childless senior citizen. Therefore, the Gayathri is not qualified to be called as her relative within the statutory meaning of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. There is no provision in this Act under which Dr.D.Ambikapathy could have obtained relief against Gayathri. His remedy is elsewhere. Therefore, W.P.(MD)No.7484 of 2022 is allowed and W.P.(MD)No.8468 of 2022 is dismissed. No costs.

11.08.2022

Index : Yes / No
Internet : Yes/ No
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4.The Inspector of Police,
Thirupppalai Police Station,
Thiruppallai,
Madurai District.

5.The District Revenue Officer,
Madurai.

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