



W.P(MD)No.13994 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13994 of 2022

Narayani Ammal

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Karur – 639 001.

... 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 respondents to implement the order made in Moo.Mu.No.Aa1/5754/2020 dated 23.10.2021 passed by the 2nd respondent within the time frame as fixed by this Court.

For Petitioner : Mr.N.Shanmugaselvam

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.



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ORDER

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Heard the learned counsel on either side.

2.The petitioner had obtained an order of maintenance in her favour against her son. The grievance of the petitioner is that even though the order was passed as early as on 23.10.2021, till date it has not been implemented. Section 11 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is as follows:-

“11. Enforcement of order of maintenance

1. A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

2. A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter I X of the Code of Criminal Procedure, 1973 and shall be executed in the manner prescribed for the execution of such order by that Code.”



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3.The second respondent has been conferred with the power to execute an order of maintenance. Since power is coupled with duty, the second respondent is directed to implement the petition mentioned order.

4.The learned counsel for the petitioner states that the second respondent appears to be inactive because the petitioner's son had claimed that he has filed an appeal before the District Collector. It is well settled that an appeal would lie only at the instance of the aggrieved senior citizen. Even though if any appeal or any writ petition has been filed challenging the order passed by the second respondent, unless there is any interim order of stay, the order will continue to remain executable. The second respondent will bear this in mind and act accordingly.

5.The writ petition is allowed accordingly. No costs.

26.07.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

ias

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