



W.P.(MD)No.26232 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2022

CORAM

**THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

W/.P. (MD) No.26232 of 2022

Indhirani

.. Petitioner

Vs.

1.The District Collector,  
Theni, Theni District.

2.The Sub Collector/Revenue Divisional Officer,  
Periyakulam, Theni District.

3.The Sub Registrar-I,  
Periyakulam,  
Theni District.

4.Jeyachandran

.. Respondents

**Prayer :-** Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to cancel the sale deed bearing document No.1669 of 2021 registered before the Sub Registrar Office-I, Periyakulam, Theni District in respect of property in Survey no.2466/3, of Thamarikulam Village, Periyakulam Taluk, Theni District under the Maintenance of Welfare of Parents and Senior Citizen Act by considering the representation of the petitioner dated 02.11.2022.

For Petitioner

:

Mr.S.C.Herold Singhs

For R1 to R3

:

Mr.K.S.Selvaganesan

Additional Government Pleader



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## **ORDER**

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This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to cancel the sale deed bearing document No.1669 of 2021 registered before the Sub Registrar Office-I, Periyakulam, Theni District in respect of property in Survey no.2466/3, of Thamarikulam Village, Periyakulam Taluk, Theni District under the Maintenance of Welfare of Parents and Senior Citizen Act, by considering the representation of the petitioner dated 02.11.2022.

2.Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader, who takes notice for the official respondents. Considering the nature of order proposed to be passed in this writ petition, notice to the fourth respondent is dispensed with. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3.The grievance of the petitioner is that the petitioner is a senior citizen. The husband of the petitioner bequeathed all his properties in favour of his two sons equally during his life time through a registered Will. After the death of the petitioner's husband, the sons of the petitioner failed to maintain her.

Further, even there is a specific clause in the said Will that the property in



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S.No.2466/3 along with a building should not be sold till her life time, the fourth respondent sold the same to one Nagaraj by way of a registered sale deed. Therefore, the petitioner made complaints but the same went in vain.

4. The learned counsel for the petitioner submitted that the properties are self acquired properties of the petitioner's husband. He bequeathed all his properties in favour of his sons on the firm hope that they will take care of their parents. But the sons of petitioner failed to maintain the petitioner after her husband's demise. Further, when there is a specific clause in the Will not to sell the property till the life time of the parents, the fourth respondent illegally sold the same. Therefore, the sale deed is invalid and the registration authority has to cancel the said sale deed. Hence, the petitioner made representation to the second respondent under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Since no action was taken by the respondents, the petitioner has filed the present writ petition.

5.The learned counsel appearing for the petitioner would submit that it would suffice to issue direction to the official respondents to consider the petitioner's representation, dated 02.11.2022



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6.No prejudice would be caused to the official respondents, if the petitioner's representation filed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is considered on merits and in accordance with law, after affording a fair hearing to the petitioner and the fourth respondent, as well as any other necessary party, whom the official respondents deems fit to enquire.

7.Considering the above said submissions, this Court, without expressing any opinion on the merits of the matter, directs the official respondents to consider the petitioner's representation dated 02.11.2022 and pass appropriate orders, on merits and in accordance with law, after affording a fair hearing to the petitioner and the fourth respondent, as well as any other necessary party, whom the official respondents deems fit to enquire, within a period of sixteen [16] weeks from the date of receipt of a copy of this order.

8.With the above direction, this Writ Petition is disposed of. No costs.

**21.11.2022**

Index : Yes/No  
Internet : Yes/No  
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**V.BHAVANI SUBBAROYAN, J.**

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To

- 1.The District Collector,  
Theni, Theni District.
- 2.The Sub Collector/Revenue Divisional Officer,  
Periyakulam, Theni District.
- 3.The Sub Registrar-I,  
Periyakulam,  
Theni District.

Order made in  
W.P.(MD) No.26232 of 2022

21.11.2022