



W.P. No. 15244 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 15244 of 2022

and

W.M.P. Nos. 14418 of 2022 and 16458 of 2023

V.Ramar

... Petitioner

-VS-

1. The District Collector,
Salem District,
Salem.
2. The Revenue Divisional Officer,
Attur,
Salem District.
3. The Superintendent of Police,
Salem City,
Salem District.
4. The Inspector of Police,
Gangavalli Police Station,
Salem District.
5. Rajamani
6. Jeyaprakash
7. Ramajaya Naresh
8. Jayasudha

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus directing the First to Fourth Respondents to accord protection to the Petitioner and the Petitioner's wife Alagammal and prevent the atrocities of the Fifth to Eighth Respondents against the Petitioner under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and Rules made thereon.

For Petitioner : Mr. C.K.M.Appaji

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 & R2)

Mr. S.Rajkumar,
Additional Public Prosecutor
(for R3 & R4)

Ms. Wahida Begum (for R5 & R7)

Not Ready in Notice (for R6 & R8)

ORDER

Heard Mr. C.K.M.Appaji, Learned Counsel for the Petitioner, U.Baranidharan, Learned Additional Government Pleader appearing for the First and Second Respondents, Mr. S.Rajkumar, Learned Additional Public Prosecutor appearing for the Third and Fourth Respondents and Ms. Wahida Begum, Learned Counsel for the Fifth and Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. It is the case of the Petitioner that he is a senior citizen and he had made a representation dated 19.11.2021 to the First Respondent seeking protection to him and his wife Alagammal against atrocities said to have been committed against them by the Fifth to Eighth Respondents, but as it did not evoke any response, despite the earlier order dated 15.07.2021 in W.P. No. 14462 of 2021 passed by this Court, it has necessitated the filing of this Writ Petition.

3. Learned Counsel for the Petitioner contends that the said representation has been made to the First Respondent invoking Rule 20(2)(i) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, which reads as follows:-

“20. Duties and powers of the District Collector.-

....

(2) It shall be the duty of the District Collector to,-

(i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;

....”

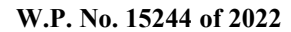
4. The Second Respondent has filed Counter-Affidavit dated 11.07.2022, which reads as follows:-



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“3. It is submitted that as per the directions received from the Hon'ble High Court, the Petitioner and the other Respondents have been summoned for enquiry and conducted enquiry in this office on 27.09.2021. The Fifth Respondent being the daughter-in-law of the Petitioner have approved and stated that the Sixth and Seventh Respondents are her sons and employed in foreign country in London. The Eighth Respondent is her daughter who was married and living in Coimbatore. In such circumstances, I have forwarded the representation of the Petitioner to the Deputy Superintendent of Police, Attur to make appropriate enquires and conclude whether necessary protection should be given to the Petitioner's family under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Accordingly, the Sub-Inspector of Police, Gangavalli Police Station has filed a report to the effect that the Petitioner has failed to give equal shares to the members cum heirs of him and therefore there arisen some misunderstanding and hatred between him and his deceased elder son Chinnasamy family members impleaded in the Writ Petition as Fifth to Eighth Respondents. Further, it has become the known fact that one of fear that the apparents of his deceased son being



6. *It is submitted that as per the directions received from the Hon'ble High Court in W.P. No. 14462 of 2021 appropriate enquiries have been conducted and the Police report from the Gangavalli Police Station has been obtained on 21.06.2022 to the effect that no Police protection is necessary to the Petitioner who failed to give equal shares or his property to the heirs of his*



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eldest deceased son impleaded as Fifth to Eighth Respondents

WEB COPY *herein.*

7. *It is submitted that the Petitioner living peacefully without any trouble from the Fifth to Eighth Respondents and out of fear only the Petitioner has filed this Writ Petition which is devoid of merits and it is quite obvious that it is out of Petitioner's failure to bequeath his property in equal shares to all the heir there arisen misunderstanding and family feud between his family members.*

8. *It is submitted that the Sixth to Eighth Respondents are not here in Krishnapuram Village, they are living elsewhere in London and the daughter in Coimbatore. The averments made by the Petitioner are false and out of fear only he filed a Writ Petition entangling them in the Writ which is frivolous and improper.”*

5. The Fifth to Eighth Respondents while denying the allegations of the Petitioner in the affidavit filed in support of the Writ Petition have stated as follows:-

“3. The Respondents deny all the allegations stated in para 2 of the petition. The Respondents submit that the Fifth Respondent's



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husband and Sixth to Eighth Respondents father Chinnasami died on 12.07.2011 and after his death they were staying with the Petitioner, his wife. The said house property belonged to the Petitioner's sister Periyammal who became widow at young age, the Petitioner's sister Periyammal died on 12.12.2011 her husband pre-deceased from her, they had no children and the Petitioner Ramar and his brother were this successors of the property of the sister Periyammal the Petitioner, executed a sale deed in favour of his younger son Sekar fraudulently without knowledge of the Petitioner brother Vellaiya Gounder who is also one of the legal heir of the sister late Periyammal.

4. The Respondents deny all the allegations stated in para 3 & 4 of the petition after the death of Chinnasami the Fifth Respondent Rajamani had to face lot of pains and hurdles in her life. The Sixth to Eighth Respondents were given education by seeking help of her mother side relatives. It is not just to say that the Petitioner's younger son Sekar took care of the Sixth to Eighth Respondents. The Fifth Respondent struggled a lot to bring up her children and with Gods Grace they are now in a decent job. The



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Sixth Respondent Jayaprakash is settled in London and the Seventh Respondent Rama Jaya Naresh was working in U.S and at present working in Chennai, the Eighth Respondent Jayasudha got married and settled in Coimbatore.

5. *The Respondents deny all the allegations stated in para 5 of the petition the said Chinnasami the husband and father of the Respondents and son of the Petitioner herein has equal right and share in the property of the Petitioner. From the date of demise of her husband, the Fifth Respondent has been ill treated by all the family members of the Petitioner. Since she had no other source of survival and support she had to face all the troubles and insults given by her brother-in-law Sekar, sister-in-laws Alamelu, Papathi and Mani.*

6. *The Respondents deny all the allegations stated in para 6 of the petition as the Sixth to Eighth Respondents stay away from the Fifth Respondent she has been tortured by all the family members insisting her to vacate from the house. The Petitioner and his wife being aged people stayed alone in the house without any care and*



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concern by their children. It is only the Fifth Respondent who takes care of their food, medicines and other requirements. The said brother-in-law Sekar, sister-in-laws Alamelu, Papthi and Mani use to visit them occasionally and every time they pickup quarrel with the Fifth Respondent who is also aged about 65 years and having lot of health issues and also staying alone with her aged in laws. During the pandemic period brother-in-law and sister-in-laws of the Fifth Respondent unauthorizedly entered in to the house on 09.08.2020 and started threatening and abusing the Fifth Respondent to vacate the house and go away and give the possession by beating her and started damaging the door, windows and toilet. As the Fifth Respondents sons and daughter stay abroad they were not able to come down to Salem to come for their mothers Aid. The Fifth Respondent approached the elders of the Village for help and seek justice for their ill treatment. The elders of the Village advised brother-in-law and sister-in-laws not to give any kind of trouble. Inspite of their advise their behavior was same and they started beating the Fifth Respondent and caused physical injury leading to bleeding on the Fifth Respondent knee and pushed her out of the house. The Fifth



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Respondent lodged complaint on them on 10.08.2020. CSR 151 of 2020 was registered before the Gengavalli Police Station, Salem District. On 24.10.2020 another CSR No.202 of 2020 was registered against the said brother-in-law Sekar, sister-in-laws Alamelu, Papathi and Mani.

7. The Respondents deny all the allegations in Para 7 & 8 of the petition. The Petitioner herein being aged about 93 years has been forced by his son Sekar and daughters Alamelu, Papathi and Mani to transfer the property in their name. Though the Fifth Respondent stayed with her in laws the absence of her children who are living abroad the said brother-in-law Sekar, sister-in-laws Alamelu, Papathi and Mani to indulge in grabbing the property forcefully from the aged parents. In order to safeguard themselves from their illegal actions they are utilizing their aged parents as shield to protect from any kind of legal actions against them.

8. The Respondent humbly submits that similar Writ Petition in W.P. No. 14462 of 2021 Writ of Mandamus was filed by the



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Petitioner on the instigation of his son and daughters to protect themselves from their illegal acts. This Court directed the First and Second Respondents to consider the complaint of the Petitioner. The First and Second Respondents with due respect to the direction of this Court called upon the Petitioner and the Respondents herein for enquiry and came to know that the Petitioner's son Sekar, Alamelu, Papathi and Mani has portrayed themselves as being good and indulged to grab the share of the property belonging to their demised brother Late Chinnasami and his legal heirs Fifth to Eighth Respondents herein. The First and Second Respondents closed the enquiry and advised both the Petitioner and the Respondents to solve the problem in appropriate Court of law as the matter is purely of Civil nature. The Fifth to Eighth Respondents have filed O.S. No. 382 of 2021 before the learned Subordinate Judge Court, Athur, Salem District for the relief of partition and separate possession with permanent injunction not to disturb her peaceful possession and enjoyment over the property further stated that she resides in the said house for more than 40 years (i.e.) from the date of marriage and hence, she is also having right over the house and other



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properties. The said suit is still pending before the learned Subordinate Court, Athur, Salem District.

The Respondents humbly submit that the Petitioner has come forward with this petition only on the instigation and compulsion of son and daughters who are the culprits for all the wrong incidents and this petition is filed by them and not by the petitioner, just as a shield to protect themselves under the senior citizenships Act which does not has any locus standi. The Fifth to Eighth Respondents humbly pray before this Court to dismiss the Writ Petition and thus render justice.”

6. Having regard to the rival contentions, this Court without expressing any view on the merits of the controversy involved, passes the following order:-

- (i) the First Respondent shall immediately examine the representation dated 19.11.2021 made by the Petitioner including ascertaining as to whether the Petitioner is a senior citizen and would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the



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Petitioner requiring the same to be furnished within a time frame of not less than 3 working days for the same;

- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to all persons concerned including the Petitioner and the Fifth to Eighth Respondents to explain their position in that regard; and
- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the concerned persons by 30.06.2024 under written acknowledgment.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

09.11.2023

kv

Index: Yes/No

Note: Issue order copy by 29.05.2024.



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To

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P.D. AUDIKESAVALU, J.

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