



WEB COPY



W.P.No.17442 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.17442 of 2020

and

WMP.No.21623 of 2020

Grace Vargese

...Petitioner

Vs.

1. The District Collector,
Chengalpattu, Kancheepuram District.
2. The Revenue Divisional Officer,
Tambaram, Kancheepuram District.
3. Annie Josie

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.2319/2019 dated 10.12.2019 and quash the same and consequently direct the 2nd respondent to adjudicate the petitioner's complaint dated 09.12.2019 in his capacity as duly constituted Tribunal under section 7(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

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

For Respondents : Mrs.N.Senthil Selvi, GA, for R1 & R2



W.P.No.17442 of 2020

ORDER

This Writ petition has been filed seeking quashment of the proceedings of the 2nd respondent in Na.Ka.No.2319/2019 dated 10.12.2019 and for a consequential direction to the 2nd respondent to adjudicate the petitioner's complaint dated 09.12.2019 in his capacity as duly constituted Tribunal under section 7(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. Though notice was ordered to the 3rd respondent, the notice was returned with endorsement 'left'. However, as no adverse order is being passed against the 3rd respondent, further notice to the 3rd respondent is dispensed with.

3. The case of the petitioner is that, the petitioner married one Kora Varghese and out of their wedlock, they were blessed with three daughters and the 3rd respondent herein is none other than the elder daughter of the petitioner. The petitioner's husband, during his lifetime, had purchased the properties comprised in New S.Nos.206/74 and 206/75, totally measuring an



W.P.No.17442 of 2020

extent of 9600 sq.fts., situated at pammal Madura Nagelkeni Village, vide separate sale deeds dated 27.08.1961 and 05.06.1979 bearing Doc.Nos.2191 of 1961 and 14379 of 1975 respectively. Pursuant to the said purchase, the petitioner and her husband are living in the said property along with their three daughters by putting up a house thereon. The 3rd respondent herein lived with the petitioner along with her two children. While so, by fraudulent means, the 3rd respondent made the petitioner to execute settlement deed dated 28.05.2013 bearing Doc.No.346 of 2013 in respect of 1/3rd share of the house property in her favour. Subsequent to which, on 03.04.2019, the 3rd respondent issued a legal notice to the other two younger daughters of the petitioner calling upon them to partition the house property. Aggrieved by the above said action of the 3rd respondent, the petitioner preferred a complaint before the 1st respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking to cancel the fraudulent settlement deed dated 28.05.2013, upon receipt of which, the 1st respondent forwarded the same to the 2nd respondent, who in turn, passed an order dated 10.12.2019 bearing Na.Ka.No.2319/2019 directing the petitioner to approach the Sub-registrar. Challenging the same, the petitioner has come up with this Writ petition.



W.P.No.17442 of 2020

WEB COPY

4. Learned counsel for the petitioner submitted that the petitioner is a Senior citizen and the 3rd respondent/the petitioner's elder daughter fraudulently obtained the signature of the petitioner in the settlement deed dated 28.05.2013, as if the petitioner settled 1/3rd share of the house property in her favour, however, after obtaining the same, the 3rd respondent is not taking care of the petitioner. Thereby, the petitioner made a complaint under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, however, the 2nd respondent has mechanically rejected the petitioner's complaint, directing the petitioner to approach the competent Sub-registrar to workout the remedy, without considering any of the above said facts and without taking into account the hardships faced by the petitioner at this age, which is not sustainable. Hence, he prayed for appropriate orders.

5. Learned Government Advocate appearing for the 1st and 2nd respondents fairly submitted that, the petitioner being a Senior citizen, her complaint must have been considered effectively. Hence, this Court may issue necessary direction to the 2nd respondent.



W.P.No.17442 of 2020

WEB COPY

6. Heard learned counsel on either side and perused the material documents placed on record.

7. A perusal of the materials available on record particularly the impugned order reveal that, upon receipt of the complaint of the petitioner, who is a senior citizen, seeking to cancel the fraudulent settlement dated 28.05.2013, on the ground that, the 3rd respondent has obtained 1/3rd share of the subject property without the knowledge of the petitioner and is not taking care of the petitioner and made her to suffer, the 2nd respondent, without taking appropriate action on the said complaint, rejected the same with a direction to the petitioner to approach Sub-registrar for appropriate remedy, without considering the old age of the petitioner and made her to run from pillar to post, which cannot be acceded to. Further, the 2nd respondent has not discussed anything on the merits of the case by exercising his power as duly constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and had simply directed the petitioner to approach the Sub-registrar. Hence, this Court has no hesitation to interfere with the order impugned in this Writ petition.



W.P.No.17442 of 2020

WEB COPY

8. In view of the above facts, the rejection order of the 2nd respondent dated 10.12.2019 impugned in this Writ petition is set aside and the matter is remanded to the 2nd respondent for fresh consideration and the 2nd respondent is directed to conduct appropriate enquiry between the petitioner and the 3rd respondent by affording an opportunity of personal hearing to the parties and pass appropriate orders for maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, within a period of twelve weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition stands allowed with the aforesaid directions. No costs. Consequently, connected Miscellaneous petition is closed.

22.06.2023

skt

NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No

6/8



W.P.No.17442 of 2020

WEB COPY To

1. The District Collector,
Chengalpattu,
Kancheepuram District.
2. The Revenue Divisional Officer,
Tambaram,
Kancheepuram District.



WEB COPY



W.P.No.17442 of 2020

M.DHANDAPANI., J.

skt

W.P.No.17442 of 2020
and
WMP.No.21623 of 2020

22.06.2023