



W.P.No.22394 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.22394 of 2022
and WMP.No.21454 of 2022

Moorthi

... Petitioner

Vs

1.Maintenance and Welfare of Parents
and Senior Citizen Tribunal
Appellate Authority, Rep by
The District Collector
Thiruvallur District.

2.Maintenance and Welfare of Parents
and Senior Citizen Tribunal
Rep by Revenue Divisional Officer
Ponneri, Thiruvallur District.

3.Krishnaveni

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the first respondent in Na.Ka.No.1119/A2/2021 dated 14.05.2022, and quash the same.



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For Petitioner : Mr.S.Parthasarathy
For Respondents : Mr.G.Ameedius
Government Advocate for R1 & R2
Mr.P.V.Muralidhar for R3

ORDER

The petitioner is one of the children of the third respondent. The third respondent had moved the second respondent with an application under Maintenance and Welfare of Parents and Senior Citizen Act. Before the second respondent, she had given a statement, wherein she would say that she is in possession of a house site assigned by the Government, that she along with her husband had purchased about 2.5 acres in Thadaperumbakkam Village, that she also wants to share the property equally between all her children, and that she wants to stay in her house, which is denied by the petitioner. The petitioner has given a statement that he has spent considerable amounts for the benefit of the family, for upkeep of the property, and in this regard, he had incurred atleast a debt of Rs.5.0 lakhs. He also submitted that he has spent considerable amounts for the marriages of his two sisters and a brother.



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2. The Revenue Divisional Officer has also heard the statement of some of the other children of the third respondent, based on the complaint lodged by her, and therefore, has directed the petitioner to hand over the house, back to the third respondent.

3. The petitioner has gone in an appeal before the District Collector, Thiruvallur District, under Section 16 of the Act, and vide his proceedings dated 14.05.2022, the District Collector has confirmed the order of the second respondent, and this is under challenge.

4. At the outset, it must be stated that the appeal preferred by the petitioner before the first respondent is incompetent, since under Section 16 of the Act, only a senior citizen can prefer an appeal. Therefore, this Court chooses to treat it as one challenging the order of the second respondent.

5. The learned counsel for the petitioner towed his stated position as was made before the second respondent, and continued to submit that the landed property measuring about 2.5 acres was a coparcenary property, that it jointly belonged to the petitioner's father and his siblings, and the third



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respondent is now adopting the tactics to get back the property without recourse to law. He however made a fair statement that the property stands in the name of his mother, but urged that it continues to be the ancestral property, and that the third respondent-his mother is only a name lender.

6.1 This Court does not get into the merits of the dispute raised by the petitioner. *Stricto senso*, this is outside the purview of this litigation. But given the object behind this enactment, this Court still is constrained to inform the petitioner that it would be appropriate for him not to stretch his desires beyond his entitlement. If the property belongs to his mother, let it be respected. If he truly speaks that he had put up some construction at his expenses, then those are the aspects that may have to be worked out by him before the appropriate civil court.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2023

Index : Yes / No
Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

ds

To:

1.The District Collector
Maintenance and Welfare of Parents
and Senior Citizen Tribunal - Appellate Authority
Thiruvallur District.

2.The Revenue Divisional Officer
Maintenance and Welfare of Parents
and Senior Citizen Tribunal
Ponneri, Thiruvallur District.

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