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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **05.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.34646 of 2022

Mr.K.Kandhasamy

... Petitioner

..Vs..

1. The District Collector/Appellate Tribunal
For Senior Citizen Maintenance and Welfare
Namakkal District, Namakkal.
2. The Revenue Divisional Officer/Tribunal
For Senior Citizen Maintenance and Welfare
Namakkal District, Namakkal.
3. The Sub Registrar,
Rasipuram,
Namakkal District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the second respondent to pass appropriate orders on the petition filed by the petitioner under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 dated 14.11.2022 by considering the same within the time limit that may be stipulated by this Court.

For Petitioner

:: Mr. P.Ganesan

For Respondents

:: Mr. V.Bharanidaran
Additional Government Pleader

**ORDER**

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The Writ Petition has been filed in the nature of a Mandamus directing the second respondent/ Revenue Divisional Officer/Tribunal, Senior Citizen Maintenance and Welfare Act for Namakkal District, to pass necessary orders on the representation dated 14.11.2022.

2. The petitioner is a Senior Citizen. He had executed a Settlement Deed in favour of his younger son K.Manivel. The settlement deed dated 24.12.2018 had been registered as Document No. 5493 of 2018 in the Office of the sub Registrar, Rasipuram, Namakkal District.

3. Aggrieved that his son was not maintaining him, the petitioner had preferred a regular petition before the second respondent/Revenue Divisional Officer/Tribunal under the provisions of the Senior Citizen Maintenance and Welfare of Parents and Senior Citizen Act, 2007. During the said hearing of the petition, the daughter of the petitioner herein, Revathy had given a statement that the petitioner was staying with her and that her brother K.Manivel, the settlee was not looking after the father and had actually misbehaved with the petitioner/father.



4. The grievance of the writ petitioner is that over looking those statements, the second respondent appears to have passed an order on 25.07.2022 under the provisions of the Act. The petitioner has an appellate remedy available before the District Collector. However, he had given a representation before the second respondent/Revenue Divisional Officer in the nature of an appeal. In the said representation, he had also stated that he filed an Appeal before the Collector but that there was no progress in the said appeal.

5. Heard the learned counsel for the petitioner and also the learned Additional Government Pleader Mr.V.Bharanidaran.

6. In view of the facts stated, the following directions are issued:-

(i) Let the petitioner file a fresh appeal before the Collector and even if it is complained that the petitioner's appeal is time barred or barred by the law of limitation, I would condone the delay since the petitioner had already given a representation before the Collector. The petitioner should file such fresh appeal before the Collector on or before 31.01.2023. If



the said appeal is filed on or before 31.01.2023, the first respondent/ District Collector / Appellate Tribunal, should take the same on record, issue notice not only to the son K.Manivel but also to the daughter Revathi and examine the statements they had already given before the Tribunal / Revenue Divisional Officer and then take a considered final decision in the interest of the justice after examining all aspects.

(ii) The said exercise of the District Collector should be completed within a period of six weeks from the date on which notice is actually served and when the son / settlee K.Manivel appears before the said authority. The earlier Appeal already filed by the petitioner may also be tagged along with the fresh appeal to be filed by the petitioner on the basis of this order.

(iii) If the appellate Authority is of the opinion that the points raised by the petitioner and also the statement of his daughter Revathi had not been properly considered by the Revenue Divisional Officer/Tribunal, the appellate Authority may also consider remitting the matter back to the Original Authority / Revenue Divisional Officer for re-examination of the entire issues afresh.

7. I would leave it to the wisdom of the first respondent / District



Collector/ Appellate Authority, to take a considered decision on the basis of the statements made and on the basis of the records available. As stated, such decision may be taken within a period of six weeks from the date on which the respondents enter appearance in the appeal.

8. No further orders are required. The Writ Petition stands disposed of. No costs.

05.01.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

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C.V.KARTHIKEYAN, J.,



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6



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