



WP(MD)No.6670 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.6670 of 2023

and

WMP(MD)No.6296 of 2023

Deepa

.. Petitioner

v.

1.The District Collector,
O/o.Sivagangai Collectorate,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer
and Executive Magistrate,
Sivagangai,
Sivagangai District.

3.Arjunan

4.Ramu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent in Mu.Mu.B5/3133/2023 dated 07.03.2023 and quash the same.



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For Petitioner : Mr.R.Ilayaraja

For Respondents : Mr.P.T.Thiraviam,
Government Advocate
for R.1, R.2

Mr.R.Senthil Kumar
for R.3, R.4

ORDER

This writ petition is filed challenging the order passed by the first respondent on an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act”).

2.The respondents 3 & 4 are senior citizens and they are having three children, namely, Thirumalai, Sasikumar and Anandhavalli. The petitioner is the wife of Sasikumar. On 08.09.2022, the respondents 3 & 4 made an application under the Act before the second respondent against their daughter-in-law, i.e., the petitioner herein. According to them, the property in S.No.179/7B1 is the self-acquired property of the third respondent. The petitioner, on 10.05.2022, broke into their house, along with their son,



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Sasikumar and stole some original documents along with the gold jewels belonging to their daughter, Anandhavalli. It was further agitated that the petitioner took over the possession of the house without letting the respondents inside. Hence, they prayed before the second respondent for recovery of the things and possession of the house usurped from them. The second respondent by order dated 07.12.2022 dismissed their application and thus, they have filed their appeal before the first respondent under Section 16 of the Act. In the appeal, the first respondent by order dated 07.03.2023, allowed the application by reversing the findings of the second respondent. This appellate order is now challenged by the petitioner.

3.The learned Counsel for the petitioner submitted that the petitioner's husband is working abroad and the property in S.No.179/7B1 was constructed out of his hard-earned money. The said house is of different portions and the petitioner was already residing in a separate portion. Also, the petitioner's brother-in-law is married to a relative of the respondents 3 & 4 and since the petitioner is not from their relation, there was no cordial relationship between them from the beginning. He further



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submitted that the application for maintenance by the respondents 3 & 4 is not maintainable, as they have sufficient means to be maintained by themselves with a separate residence. Hence, the impugned order directing the petitioner to hand over the property is liable to be dismissed.

4.The learned counsel for the respondents 3 & 4 by referring to the counter affidavit filed, submitted that the petitioner has no rights to grab the self-acquired property of the third respondent. The petitioner has already assaulted the in-laws in various situations and complaints under CSR No.844 of 2017 and CSR No.921 of 2021 were also filed before the Manamadurai Police Station. Further, the Act intends to protect the senior citizens' rights. Hence, by way of an application, they sought protection from the illegal acts of the petitioner and their son. Therefore, the learned Counsel prayed for the dismissal of this petition.

5.This Court considered the rival submissions and perused the materials placed on the record.



6.The petitioner is the daughter-in-law of the respondents 3 & 4. The petitioner's husband, Sasikumar, is the second son of the said respondents and he is working abroad. The said respondents, with an allegation that the petitioner has assaulted them, have lodged a complaint before the Manamadurai Police Station and filed an application before the first respondent under the Act. The second respondent dismissed the application stating that the relief under the Act can be sought only by senior citizens who do not have any means to maintain themselves from their properties. Whereas the first respondent, on the appeal, has reversed the findings by holding that the Act is also relevant for ensuring the protection of the senior citizens and ordered for delivery of the possession of the house to the respondents 3 & 4. The petitioner has filed this writ petition with the grievance that due to the appellate order, she is now forced to vacate from the residing house when her husband is abroad.

7.From the depositions of the parties in the orders passed by the respondents 1 & 2, it is highly probable that the house in S.No.179/7B1 was constructed from the earnings of both the sons of the respondents 3 &



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4. The petitioner could have also lived there in a different portion of the same house. Since it is only a family dispute, this Court by order dated 28.03.2023, directed the petitioner to file an affidavit stating the maintenance she would tender to the respondents 3 & 4 for protection of her possession in the house. In compliance with the same, the petitioner filed an affidavit dated 02.06.2023, that she would tender Rs.5000/- as monthly maintenance to the respondents 3 & 4.

8. In view of the same, the respondents 3 & 4 shall be in possession of the house for their lifetime and the petitioner shall also continue to live there on payment of Rs.5000/- as monthly maintenance to the respondents 3 & 4. On the above terms, the impugned order is modified and this writ petition is accordingly, disposed of.

Index : Yes / No
NCC : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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