



W.P.(MD)No.19435 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19435 of 2023

and

W.M.P.(MD)No.16076 of 2023

C.Jesi Christinal

... Petitioner

versus

1. The District Collector/
Appellate Authority,
[Under Maintenance and Welfare of Parents
and Senior Citizen Act, 2007],
Tirunelveli District,
Tirunelveli.
2. The Revenue Divisional Officer/
Presiding Officer/Maintenance Tribunal,
[Under Maintenance and Welfare of Parents
and Senior Citizen Act, 2007],
Tirunelveli District,
Tirunelveli.

3. S.Sam Beniamdeen

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorarified Mandamus, to call for



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the records relating to the impugned order passed by the 2nd respondent dated 13.02.2023 in Mu.Mu.A8/3771/2022 and quash the same and consequently, direct the 2nd respondent to consider the petitioner's application dated 24.11.2022 on merits and in accordance with law within the time frame stipulated by this Court.

For Petitioner : Mr.G.Mohankumar

For R1 and R2 : Ms.D.Farjana Ghoushia,
Special Government Pleader

ORDER

The petitioner has filed this writ petition as against the order dated 13.02.2023 passed by the second respondent/the Revenue Divisional Officer, Tirunelveli, under Maintenance and Welfare of Parents and Senior Citizen Act, 2007.

2. The learned counsel appearing for the petitioner submits that the petitioner is a Senior Citizen aged about 78 years. Her husband Chellappa died on 18.10.2004. Her daughter, namely, C.Praiseline Ganarani also died on 04.05.2021 after giving birth to a son namely



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C.Den Rojer the day before on 03.05.2021 and on 13.06.2021 the newborn baby was taken away from her custody. The 3rd respondent, who is none other than her nephew, made her to believe that he is her son and he will take good care of her. Believing the same, she has given his name as her nominee in her service records and bank accounts during June 2021. He has also taken away 60 sovereigns of her gold jewels and pledged it in his name with the bank.

3. The learned counsel for the petitioner further submits that the 3rd respondent has obtained the petitioner's signature in the purported sale deeds dated 18.06.2021 and 23.06.2021 pertaining to her plots at Austin City and Annai Velankanni Nagar, making her to believe that it is a will. Therefore, the petitioner has filed an application under Maintenance and Welfare of Parents and Senior Citizen Act, 2007 before the second respondent, seeking cancellation of the purported sale deeds dated 18.06.2021 and 23.06.2021 and return of her movable properties illegally taken away by the 3rd respondent. However, the



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second respondent, by his order dated 13.02.2023, rejected the said application stating that the petitioner is not seeking for food, shelter and medicine and therefore, the application is not maintainable under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Aggrieved over the same, the present writ petition is filed.

4. Ms.D.Farjana Ghoushia, learned Special Government Pleader, who takes notice for the respondents 1 and 2, by referring to the provisions under Section 16 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, submits that the petitioner is having an efficacious appeal remedy before the first respondent/the District Collector, Tirunelveli.

5. Considering that the petitioner is having an efficacious appeal remedy before the first respondent/the District Collector, Tirunelveli, this writ petition is disposed of with a direction to the petitioner to prefer an appeal before the first respondent, within a period of two



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weeks from the date of receipt of a copy of this order. If such an appeal is filed within the stipulated time, the first respondent shall consider the same and take a decision in accordance with law, within a period as provided under sub-section 6 of Section 16 of the Act. No costs. Consequently, connected miscellaneous petition is closed.

10.08.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J.

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