



W.P(MD)No.22052 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22052 of 2023

and

W.M.P.(MD)Nos.18371 and 18372 of 2023

N.K.Michael

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Revenue Divisional Officer,
Sub Collector,
Padmanabhapuram,
Thucklai,
Kanyakumari District.

3.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

4.M.S.Sunil Kumar

5.Shaji

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order passed by the



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1st respondent in O.Mu.C3/782685/2023 dated 25.04.2023 confirming the order of the 2nd respondent in Mu.Mu.(A2)/7392/2022 dated 27.01.2023 and to quash the same and consequently direct the 2nd respondent to pass Protection Order The Maintenance and Welfare of the Parents and Senior Citizens Act, 2007, directing the Respondents 4 and 5 to vacate the petitioners house Door No.1-122, of Pacode Town Panchayat, Kanyakumari District within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.M.Sidharthan,
Addl. Government Pleader for R1 & R2.
Mr.A.Albert James,
Government Advocate for R3.
Mr.S.Sivakumar for R4 & R5.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a senior citizen. The petition mentioned property was purchased by the petitioner vide registered sale deeds dated 12.12.1990, 10.08.1994, 09.12.1994 an 11.10.1995. The fourth respondent is the petitioner's son. The fifth respondent is the wife of the



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fourth respondent. The petitioner is residing in the ground floor. The son and daughter-in-law are in the first floor. The petitioner alleges that his son and daughter-in-law are treating him cruelly and that has led to registration of Crime No.85 of 2023 on the file of Marthandam Police Station. Copies of the complaints given by the petitioner at regular intervals have also been enclosed in the typed set of papers.

3.The petitioner approached the Maintenance Tribunal for securing eviction of his son and daughter-in-law. The Maintenance Tribunal declined to grant relief. Challenging the proceedings dated 27.01.2023 issued by the Maintenance Tribunal, the petitioner moved the District Collector under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The District Collector also confirmed the view taken by the Maintenance Tribunal. Challenging the same, the present writ petition came to be filed.

4.The only question that calls for consideration is whether the Maintenance Tribunal has the power to order eviction of the private respondents at the instance of a senior citizen.



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5.The learned counsel for the contesting respondents relying on the decision reported in **(2020) SCC OnLine SC 1023 (S.Vanitha v. The Deputy Commissioner, Bengaluru Urban District)** case submitted that if such power is given to the Maintenance Tribunal that would result in compromising the rights of a daughter-in-law under the provisions of the Protection of Women from Domestic Violence Act, 2005.

6.Of course, in **Vanitha's** case, the Hon'ble Apex Court endeavoured to harmonize the statutory scheme obtaining under the Senior Citizen Act and the one obtaining under the Protection of Women from Domestic Violence Act, 2005. But the Hon'ble Delhi High Court in the decision reported in **2017 0 Supreme (Del) 887 (Sunny Paul Vs. State of NCT of Delhi)** had held that the right of the daughter-in-law in the shared household is not an indefeasible right.

7.The learned counsel for the petitioner has drawn my attention to the judgment of Hon'ble High Court of Punjab and Haryana reported in **2016 1 PLJ 79 (Gurpreet Singh Vs. State of Punjab and Others)**, in which it was held that the right of exclusive possession of a self owned



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property by a registered document of title, can well be enforced under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 by issuing appropriate directions in exercise of jurisdiction under Article 226 of the Constitution of India. I am more than satisfied that the petition mentioned property belongs exclusive to the writ petitioner. It is not as if the provisions of the Act are sought to be misused by the petitioner by directing it only against the daughter-in-law. In fact, the petitioner's son and daughter-in-law are on the same page.

8.In this view of the matter, the respondents 4 and 5 are directed to vacate the petition mentioned premises within a period of six months. During this intervening period, it is open to the parties to arrive at any amicable settlement also. The intervention of the elders in the community and the family can also be availed. During these period, the respondents 4 and 5 are restrained from causing any kind of harassment to the petitioner. If this direction is breached, this Court will not hesitate to initiate contempt action against the respondents 4 and 5. The second respondent is mandated to enforce this order.



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9.This writ petition is allowed on these terms. No costs.

Consequently, connected miscellaneous petitions are closed.

14.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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