



WEB COPY



W.P.No.7129 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7129 of 2022
and W.M.P.Nos.7141 and 7142 of 2022

R.Ramesh

... Petitioner

-Vs-

1. The Revenue Divisional Officer /
Parents and Senior Citizens Tribunal,
Mayiladuthurai.
2. The District Collector,
Parents and Senior Citizens Appellate Tribunal,
Mayiladuthurai.
3. The Inspector of Police,
Kuththalam Police Station,
Kuththalam Taluk, Mayiladuthurai District.

4. R.Ramabai

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order of the first respondent passed in his proceedings in Na.Ka.No.327/2022/B1 dated 09.02.2022 and the order of the second respondent passed in his proceedings Na.Ka.521/2022/E2 dated 09.03.2022 and quash said orders dated 09.02.2022 and 09.03.2022.



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For Petitioner : M/s M.Meenatchi
For R1 and R2 : Mr.M.S.Arasa Kumar
Government Advocate
For R3 : Mr.R.Kishore Kumar
Government Advocate (Crl.side)
For R4 : Mr.R.Subramanian

ORDER

This writ petition has been filed challenging the order passed by the respondents 1 and 2 herein, thereby directed the petitioner to vacate his portion of the subject property and handover in favour of the fourth respondent herein.

2. Heard both sides and perused the materials available on record.

3. The petitioner is the son of the fourth respondent. The fourth respondent owned property comprised in R.S.No.D16 and R.S.No.D30 of situated in Kuththalam Town, Mayiladuthurai Taluk. When the fourth respondent's husband was alive, he constructed a five row houses which were rented out and in the house site, he also constructed two storeyed building, in which all are residing jointly. While being so, the fourth respondent's husband died in the year 2014, leaving behind the fourth respondent, the petitioner, petitioner's brother and sister as his legal heirs.



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The fourth respondent is residing in the portion of the house i.e. First floor of the house. The petitioner is living in the ground floor of the house. While being so, the fourth respondent was threatened by the petitioner and also thrown out the fourth respondent from the residence. Therefore, the fourth respondent was constrained to lodge a complaint under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act before the first respondent.

4. Though notice served on the petitioner, he did not appear and as such he was set exparte and the complaint lodged by the fourth respondent was allowed and the petitioner was directed to vacate his residence and hand over vacant possession in favour of the fourth respondent. Aggrieved by the same, the petitioner preferred an appeal before the second respondent and the same was dismissed, confirming the order passed by the first respondent.

5. A perusal of records and also on the submissions made by the learned counsel on either side revealed that the fourth respondent is



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residing in the first floor of the house and the petitioner is residing in the ground floor of the house. Though the entire property stands in the name of the fourth respondent, according to the petitioner, it was purchased by his father in the name of the fourth respondent and his father only constructed the row house which are rented out to the tenants and the residents of the petitioner. All are jointly residing in their respective portions.

6. In view of the above, the order passed by the respondents 1 and 2 are modified as follows:-

(i) The petitioner is permitted to reside in the portion of the house which is in his occupation, on condition that the petitioner is restrained from disturbing the peaceful possession and enjoyment of the fourth respondent in her portion of the house. The petitioner shall pay a sum of Rs.5000/- as monthly maintenance in favour of the fourth respondent till her lifetime, failing which the petitioner shall vacate from the portion of the house and handover vacant possession of the house in favour of the fourth respondent.

(ii) If the petitioner fails to comply with the above conditions, the



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fourth respondent is at liberty to lodge a complaint before the jurisdiction Police. On receipt of the same, the jurisdiction Police is directed to take appropriate action as against the petitioner on merits and in accordance with law and comply with the order passed by this Court.

7. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

06.09.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

mn

To

1. The Revenue Divisional Officer /
Parents and Senior Citizens Tribunal,
Mayiladuthurai.



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2. The District Collector,
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