



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15109 of 2020
and
W.M.P.Nos.18845 and 18846 of 2020

B.Vijayaa

... Petitioner

Vs.

1. The District Collector,
Erode District, Erode.

2. The Revenue Divisional Officer,
Erode, Erode District.

3. Balamurugesan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.875/2020/C4 dated 20.08.2020 and quash the same.

For Petitioner : Mr.C.Prakasam

For R1 & R2 : Mr.G.Ameedius,
Government Advocate



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For R3

: Mr.S.Bharanidharan
for Mr.B.Mohan

ORDER

The order of the District Collector, Erode dated 20.08.2020 is sought to be quashed in the present writ proceedings.

2. Curiously, the issue has been raised as to whether the husband is entitled to claim maintenance against his wife under the Senior Citizens Act. With reference to the claim set out by the 3rd respondent seeking maintenance from his own wife was considered initially by the Revenue Divisional Officer, Erode and the appeal was decided by the District Collector.

3. Section 2(h) of the Senior Citizens Act defines that “*senior citizen means any person being a citizen of India, who has attained the age of sixty years or above*”.

4. Section 2(b) of the Senior Citizens Act defines that “*maintenance includes provision for food, clothing, residence and medical attendance*



and treatment”.

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5. Section 4 of the Senior Citizens Act deals with the maintenance of parents and Senior Citizens. Section 4 is not restricted only to the parents but extended to the Senior Citizens also. It is not in dispute that the 3rd respondent is a Senior Citizen, who crossed the age of 60 years. Section 4(4) of the Senior Citizens Act enumerates that “*any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen*”. Therefore, under Section 4(4) of the Senior Citizens Act states that any person can claim maintenance under the Act against more than one relatives entitled to inherit the property of the Senior Citizen.

6. In the present case, the 3rd respondent states that he purchased immovable properties from and out of his own income and inherited from his forefather. The 3rd respondent, who claimed maintenance under the Act states that he had executed settlement deed in favour of the writ petitioner.



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After the execution of settlement deeds in favour of the writ petitioner, she had had neglected the 3rd respondent. The allegation against the writ petitioner was that she is not providing any food, shelter and other amenities to the 3rd respondent to live. Since the properties belonged to the 3rd respondent was settled to his own wife / writ petitioner and the 3rd respondent has no means to live, he approached the Revenue Divisional Officer under the Senior Citizens Act for grant of maintenance. The Revenue Divisional Officer in proceedings dated 25.02.2020 adjudicated the issues between the 3rd respondent and the writ petitioner and based on the deposition and the documents, passed the order stating that the 3rd respondent was neglected by the writ petitioner and she has failed to maintain him after securing all his properties through settlement deeds. Accordingly, three apartments, one for the residence of the 3rd respondent and two apartments for rental income was made to protect the livelihood of the 3rd respondent. The authorities found that eight apartments are available, out of which the writ petitioner is residing in one apartment and considering those facts, the 3rd respondent was allotted one apartment for his residence and 2 apartments for the purpose of the collection of rental.



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7. Pertinently, the settlement deeds executed in favour of the writ petitioner by the 3rd respondent were not cancelled by the authorities. The authorities have exercised their powers in order to protect the livelihood of the 3rd respondent. The appeal preferred by the writ petitioner was rejected and the order of the Revenue Divisional Officer was confirmed.

8. The learned counsel for the petitioner would submit that the 3rd respondent is leading a wayward life and spending huge amount, thereby causing financial difficulties to the family. The petitioner has no objection for providing food, shelter, cloths etc., to the 3rd respondent and they have no objection to accommodate them in their house itself. However, the learned counsel for the 3rd respondent, on instructions, made a submission that it is not possible since there is an apprehension of harassment by the writ petitioner and the family members and therefore, the petitioner may be allotted a separate accommodation, as ordered by the respondents 1 and 2.

9. The learned counsel for the petitioner, Mr.C.Prakasam would submit that the petitioner is ready and willing to pay a sum of Rs.15,000/- per month to the 3rd respondent towards rental income for 2 apartments and



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such monthly maintenance amount of Rs.15,000/- will be paid through account transfer in favour of the 3rd respondent on or before 10th day of every calendar month. The learned counsel for the petitioner would submit that necessary arrangements will be made for transfer of funds through electronic mode from bank accounts of the petitioner to the account of the 3rd respondent. As far as the residential right is concerned, the house allotted by the Revenue Divisional Officer i.e., House No.“C” in the Second Floor of the apartment is to be granted to the 3rd respondent for his own accommodation. Therefore, the order of the respondents 1 and 2 are confirmed with reference to the allotment of residential premises for the personal occupation of the 3rd respondent in House No. “C” Second Floor at No. 4/129, Patel Street, Erode -1.

10. With reference to the allotment of two houses at A and B, the writ petitioner has given an undertaking that she will pay a sum of Rs.15,000/- towards maintenance amount to the 3rd respondent. In view of the said undertaking, the order impugned stands modified to the extent of accommodation to the 3rd respondent, which is directed to be provided at House No. “C” Second Floor at No.4/129, Patel Street, Erode -1 and



regarding maintenance, the writ petitioner is directed to pay a sum of Rs.15,000/- per month to the 3rd respondent through bank account transfer.

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In the event of any violation by the writ petitioner in payment of monthly maintenance amount, the 3rd respondent is at liberty to approach the District Collector for execution of the order passed by the Revenue Divisional Officer and the District Collector.

11. With this modification, the Writ Petition stands disposed of.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

1. The District Collector,
Erode District, Erode.
2. The Revenue Divisional Officer,
Erode, Erode District.



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S.M.SUBRAMANIAM, J.

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