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W.P.No.16899 of 2024

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16899 of 2024

1.R.Raja Senthil Kumaran

2.R.Jayashree

.. Petitioners

Vs

1.The District Collector,
Vellore District.

2.The Revenue Divisional Officer,
Vellore.

3.The Tahsildar,
Katpadi Taluk,
Vellore district.

4.T.C.Rajamohan

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorari to call for the records of the first respondent herein dated 21.05.2024 made in Na.Ka.No.644/A1/2023 and quash the same.



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For Petitioners : Mr.K.Venkatasubban

For R1 to R3 : Mr.P.Gurunathan, AGP

For R4 : Mr.K.Balaji

ORDER

The writ petition has been filed challenging the impugned order passed by the first respondent dated 21.05.2024 directing the petitioner to handover possession of the subject property to the fourth respondent.

2. The fourth respondent is the father of the petitioners. The petitioners are residing in No.4/33, 1st East Cross Street, A Sector, VG Rao Nagar, Katpadi Taluk, Vellore District, owned by the fourth respondent. The fourth respondent separated his wife and living separately. After the demise of the petitioners' mother, the fourth respondent lodged a complaint to recover the subject property under Section 23 of the Maintenance and Welfare of Parents And Senior Citizens Act, 2007. On receipt of the same, the second respondent issued notice to the petitioners. However, they did not appear before the second respondent and therefore, they were set exparte and the complaint filed by the fourth respondent was allowed directing the petitioners to handover



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possession of the subject property to the fourth respondent.

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3. Admittedly, neither the petitioners issued with notice nor afforded an opportunity of personal hearing by the second respondent before passing the order dated 20.09.2023 directing the petitioners to vacate and deliver possession of the subject property to the fourth respondent. The maxim *Audi Alteram Partem* means hear the other side and hear both sides and in other words, the authority hearing the matter must afford an opportunity of personal hearing to the party who is likely to be affected by its decision. The first respondent, being the appellate authority, without taking note of the said factum, passed the impugned order confirming the order passed by the second respondent.

4. Therefore, in view of the aforesaid facts and circumstances of the case, the impugned order passed by the first respondent confirming the order passed by the second respondent is quashed on the sole ground of violation of principles of natural justice. Consequently, the writ petition stands allowed and the second respondent is directed to issue notice to the petitioners and the fourth respondent; and after affording an opportunity of personal hearing to them, pass appropriate orders in



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accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Connected miscellaneous petitions are closed.

05.09.2024

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Index:yes/no

Neutral Citation: yes/no

To



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G.K.ILANTHIRAIYAN, J.

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