



WEB COPY



WP.No.27209 of 2021

In the High Court of Judicature at Madras

Dated : 05.8.2024

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.27209 of 2021 &
WMP.No.28704 of 2021

Dhanabakkiyam

...Petitioner

Vs

1.The Parents & Senior Citizen
Welfare Officer/Sub-Collector,
Virudhachalam Revenue
Division, Virudhachalam,
Cuddalore District.

2.Kavitha

3.Kavya

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the 1st respondent dated 27.9.2021 vide Mu.Mu.(A4)/1945/2021, quash the same and consequently direct the 1st respondent to pass an order for payment of maintenance and residence to the petitioner under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner	:	Mr.M.R.Jothimanian
For R1	:	Mr.U.Baranidharan, AGP
For R2 & R3	:	Mr.V.Gopalsamy



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ORDER

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The writ petition has been filed challenging the proceedings dated 27.9.2021, in and by which, the first respondent rejected the application of the petitioner dated 15.7.2021 seeking to conduct an inquiry by calling upon respondents 2 and 3 and direct them to provide the petitioner including food, shelter and medical expenses, on the ground that a civil suit is pending before the Sub-Court, Vridhachalam and that the petitioner is not maintaining respondent 2 and 3.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for respondents 2 and 3.

3. The case of the petitioner is as follows :

(i) The petitioner is none other than the mother in law and the grandmother of respondents 2 and 3 respectively. The son of the petitioner died on 26.6.2003. While the husband of the petitioner was alive, he executed a settlement deed in favour of the third respondent on 18.9.2006 vide doc.No.1147 of 2006 on the file of the Sub-Registrar, Thittakudi after



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appointing the second respondent as the guardian. He also executed a settlement deed in favour of the third respondent dated 18.9.2006 vide doc.No.1148 of 2006 on the file same Sub-Registrar after appointing the petitioner as the guardian. Pursuant to that, the petitioner did cultivation in the said lands for their livelihood. The petitioner and her husband also catered to the needs of respondents 2 and 3.

(ii) After the demise of the petitioner's husband in the year 2008, she was not allowed to do any cultivation in the said lands by respondents 2 and 3. The petitioner also has four daughters and nothing was settled in their favour. According to the petitioner, during March 2021, the second respondent came to her house and prevented the petitioner from doing cultivation in the lands, in which, she was appointed as the guardian. The petitioner was not allowed to stay even in the inherited house.

(iii) Hence, the petitioner was constrained to file an application dated 15.7.2021 before the first respondent under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeking maintenance including food, shelter and medical assistance. However, without conducting any inquiry, the first respondent rejected the said application by the impugned order. Hence, the petitioner is before this Court.



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4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

5. It is apparent on the face of the record that this Court, by order dated 04.1.2022 in WMP.No.28704 of 2021, directed respondents 2 and 3 to provide accommodation to the petitioner in the house, in which, she was residing at the time of filing the application under the said Act.

6. Admittedly, a civil suit filed by the daughters of the petitioner against respondents 2 and 3 seeking for cancellation of the settlement deeds executed by their father is pending before the Sub-Court, Thittakudi with regard to the properties, for which, two settlement deeds were executed in favour of the third respondent by appointing both the petitioner as well as the second respondent as the guardians. When the civil suit is pending, it is more appropriate for the petitioner to work out her remedy in a manner known to law after securing a decision in the pending suit. This Court cannot render its decision in this writ petition at this stage.



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7. Accordingly, the writ petition is disposed of granting liberty to the petitioner to work out her remedy in a manner known to law based on the outcome of the civil suit. However, respondents 2 and 3 shall continue to implement the order passed by this Court dated 04.1.2022 so long as the petitioner is alive. No costs. Consequently, the connected WMP is closed.

05.8.2024

RAP

Index : Yes (or) No

Neutral Citation : Yes (or) No

To

The Parents & Senior Citizen
Welfare Officer/Sub-Collector,
Virudhachalam Revenue
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