



W.P.No.30171 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.30171 of 2022

A.Asaithambi

... Petitioner

-Vs-

1. The Appellate Authority of Maintenance
and Welfare of Parents and Senior Citizens Act/
District Collector,
Office of District Collector,
Salem.
2. The Sub Divisional Magistrate
/Revenue Divisional Officer,
(Tribunal for Maintenance and
Welfare of Parents and Senior Citizens),
Mettur.
3. Jeevarathinam
4. Naveen

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records with respect of the impugned order passed by the first respondent in his proceedings dated 02.05.2022 in Na.Ka.No.29020/2021/C2 confirming the order of the second respondent in his proceedings dated 12.08.2021 in Mu.Mu.No.2640/2020/D and quash the same consequently allow the application dated 18.11.2019 filed by the petitioner herein before the second respondent.



W.P.No.30171 of 2022

For Petitioner : Mr.R.Nalliyappan
For R1 and R2 : Mr.S.J.Mohamed Sathik
Government Advocate
For R3 and R4 : Mr.I.M.Siddartha Ramarajan

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 02.05.2022, confirming the order passed by the second respondent dated 12.08.2021, thereby dismissed the complaint lodged by the petitioner under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act.

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

3. The petitioner is the wife of the third respondent and the fourth respondent is the son of the petitioner and the third respondent herein. The third respondent is the second wife of the petitioner. The petitioner had purchased several properties in his name. Firstly, in survey No.46/5, 46/5B at Meyyanur Village, Arthanari Goundar street which is around 3600 sq.ft in Doc.No.3912/1994. The petitioner is earning monthly Rs.20,000/- out of this property. Secondly, a residential house of 2906 sq.ft in Mookanur Village. Thirdly, agriculture land of 1.27 acres in Poosaripatti Village, Omalur Taluk.



W.P.No.30171 of 2022

Fourthly, agriculture land of 2.00 acres in Koondukal. Fifthly, vacant land of 0.79 acres in Survey No.160/3 in Document No.790/2020 in Mookanur Village.

Hence, the petitioner has five properties in his name and it derives Rs.20,000/- rental income out of it. Insofar as the properties comprised in S.F.Nos.160/2, 160/6 and 160/5 at Mookanur village, Kadaiyampatti Taluk, Salem District to an extent of 2.48 ½ acres are concerned, it was settled in favour of the third respondent by the settlement deed dated 11.02.2011 registered vide Document No.655 of 2011. The petitioner also settled another properties comprised in S.F.Nos.34/1, 34/2b, 43/1A and 34/2C situated at Poosaripati Village, Kadaiyampatti Taluk, Salem District by the settlement deed dated 05.12.2013 registered vide Document No.949 of 2013 in favour of the third respondent. In turn, the third respondent settled the said properties in favour of the fourth respondent by the registered settlement deed dated 12.02.2018 vide Document No.948 of 2018.

4. While being so, the petitioner was not maintained by the third respondent and as such, he filed a complaint under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act to cancel the settlement deeds which was executed by the petitioner in favour of the third respondent before the second respondent. After full fledged enquiry, the second respondent



W.P.No.30171 of 2022

dismissed the complaint lodged by the petitioner. Aggrieved by the same, the petitioner preferred an appeal before the first respondent and the same was also dismissed, confirming the order passed by the second respondent.

5. A perusal of records revealed that the petitioner failed to maintain the third respondent and also committed cruelty and harassment. Therefore, the third respondent filed a complaint under the Domestic Violence Act as against the petitioner and it is pending. That apart, both had lodged complaints and ended in criminal case against each other.

6. Admittedly, the petitioner possessed so many properties and he has reasonable income to maintain himself. Therefore, in order to get the property which was already settled in favour of the third respondent that too in the year 2011 and 2013, the petitioner used the provisions under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act and lodged a complaint before the second respondent.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the first and second respondents and the writ petition is devoid



W.P.No.30171 of 2022

of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

04.10.2024

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

To

1. The Appellate Authority of Maintenance
and Welfare of Parents and Senior Citizens Act/
District Collector,
Office of District Collector,
Salem.
2. The Sub Divisional Magistrate
/Revenue Divisional Officer,
(Tribunal for Maintenance and
Welfare of Parents and Senior Citizens),
Mettur.

G.K.ILANTHIRAIYAN. J.

mn



WEB COPY



W.P.No.30171 of 2022

W.P.No.30171 of 2022

04.10.2024