



WEB COPY



W.P.No.29204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM:

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

W.P.No.29204 of 2024
W.M.P.No.31891 of 2024

Subramanian

...Petitioner

-Vs-

1. The District Collector/
The Appellate Authority for
Welfare of parents, Senior Citizen,
Tiruppur District.

2. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

3. T.Marimuthammal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in Ref.Mu.Mu.No.12445/2022/E1, dated 02.07.2022 modifying the order of the second respondent in Ref.No.Mu.M.No.0645/2022/Aa1, dated 02.05.2022 and quash the same.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents

For R1 & R2 : Mr.P.Gurunathan

Additional Government Pleader



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ORDER

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This writ petition has been filed challenging the order passed by the first respondent dated 02.07.2022, thereby modifying the order passed by the second respondent dated 02.05.2022 and ordered maintenance of Rs.8,000/- payable by the petitioner in favour of the third respondent.

2. The petitioner is the one of the sons of the third respondent. The third respondent got married one Thangamuthu Gounder and gave birth to three daughters and three sons. The property comprised in Door No.8, Thuruva Vellalar 2nd Street, Ward No.8, Udumalpet and Door No.33, Pollachi to Palani Main Road, 5th Ward, C-Block No.3, T.S.Nos. 55 & 63, originally owned by the father of the third respondent. He had executed settlement deed in favour of the third respondent and her husband by the settlement deed dated 04.12.1956 registered vide document No.577 of 1956. The property situated at Door No.33, Pollachi Road, Opp. to Sathish Tyres & Andavar Lorry booking office, Udumalpet Taluk, Tiruppur District, has been leased out in favour of the petitioner and the petitioner is paying rent to the third respondent.



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3. While being so, the third respondent lodged complaint under Section 23 of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act”), before the second respondent alleging that the petitioner had taken over the possession of the entire property and the third respondent was driven out from her house. Therefore, she could not maintain herself and therefore she lodged complaint.

4. The case of the petitioner is that his father was working as an Assistant in the Government High School, Udumalpet and he died on 27.11.1994, leaving behind the third respondent and his three daughters and three sons as his legal heirs. The third respondent is receiving family pension and also receiving rent from the petitioner. In fact, the third respondent is under the custody of the petitioner and he is maintaining her. Further a suit is also pending between the petitioner and the third respondent in O.S.No.93 of 2022 on the file of the District Munsif Court, Udumalpet.



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5. Considering the above facts and circumstances, the second respondent directed the sons and daughters of the third respondent to maintain the third respondent properly and share all the medical expenses of the third respondent. Aggrieved by the same, the third respondent preferred an appeal before the first respondent and the first respondent by an order dated 02.07.2022, directed the petitioner to pay a sum of Rs.8,000/- as monthly maintenance in favour of the third respondent and also directed other sons and daughters not to disturb the possession of the third respondent in any manner and to maintain her in proper manner and share the medical expenses due to her illness. Challenging the said order, the petitioner filed the present writ petition.

6. The learned counsel appearing for the petitioner submitted that third respondent is receiving family pension of Rs.18,000/- per month. That apart, the third respondent and her daughters filed suit in O.S.No.260 of 2023 as against the petitioner and other sons for partition in respect of the subject property. The petitioner has lease hold right in respect of the property comprised in Door No.33, Pollachi Road, Opp. to Sathish Tyres & Andavar Lorry booking office, Udumalpet Taluk,



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Tiruppur District, and the same has been renewed on 04.05.2016 for the period of seven years. The petitioner is also paying rent for the said property to the tune of Rs.3,500/- per month in favour of the third respondent. Without considering the same, the first respondent ordered maintenance that too as against the petitioner only.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. Admittedly the petitioner is in possession and enjoyment of the subject property. Though no settlement deed has been executed in favour of the petitioner or other daughters and sons, the third respondent was not maintained by them. That apart, the petitioner squatting over the property and did not pay any rent to the third respondent. In fact, the petitioner also filed suit in O.S.No.93 of 2022 as against the third respondent for permanent injunction in respect of the very same property. Therefore, the third respondent was constrained to lodge complaint under Section 23 of the Act before the second respondent. The second respondent failed to order any maintenance payable by the petitioner.



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Therefore, the appellate authority rightly ordered maintenance payable by the petitioner, apart from the family pension, in favour of the third respondent. This Court finds no infirmity or illegality in the order passed by the first respondent and the writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

04.10.2024

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

rts



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