



W.P.No.32111 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM:

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

W.P.No.32111 of 2024
and W.M.P.No.34872 of 2024

V.Gnanaseelan

... Petitioner

-Vs-

1. The District Collector,
Office of The District Collector,
Coimbatore, Coimbatore District.

2. Sub Divisional Magistrate
And Revenue Divisional Officer,
Coimbatore,
North Division And Tribunal Under Parents
And Senior Citizen Protection And Welfare Act, 2007,
Coimbatore North, Coimbatore District.

3. H.Vincent

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order dated 24.09.2024 in proceeding Na.Ka.No.3761/2024/A1 passed by the second respondent against the petitioner, quash the same.

For Petitioner	: Mr.C.D.Sugumar
For R1 and R2	: Mr.S.Mohamed Sathik Government Advocate

ORDER



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This writ petition has been filed challenging the order passed by the second respondent dated 24.09.2024, thereby directed the petitioner to vacate the subject premises and handover in favour of the third respondent.

2. Heard and perused the materials available on record.

3. The third respondent is the father of the petitioner herein. The petitioner is residing in the house which was originally allotted in favour of the third respondent by the housing board under the neighbourhood scheme area being MIG House No.755, in Survey No.13/2 part of 51, Ganapathy Village, Coimbatore North Taluk, Coimbatore. After the demise of the wife of the third respondent, the third respondent was driven out from the said house and now, he is residing with his daughter. The petitioner, being the son of the third respondent, failed to maintain him. Therefore, the third respondent was constrained to file a complaint under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act before the second respondent. After due enquiry, the second respondent ordered to evict the petitioner from the premises and hand over vacant possession to the third respondent.

4. The learned counsel for the petitioner would submit that the third respondent is maintained by the petitioner. In fact, at the time of registration of



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sale deed in favour of the third respondent, the petitioner had spent substantial amount nearly of a sum of Rs.12,00,000/- including construction. The petitioner is also having a daughter and without considering the same, the second respondent ordered for eviction that too in the complaint lodged under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, within a period of 15 days.

5. It is a settled law that in the complaint lodged under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act eviction can be ordered. In this regard, it is relevant to rely upon the Judgment the Hon'ble Supreme Court of India in the case of ***S.Vanitha vs Deputy Commissioner*** reported in ***2021 (15) SCC 730***, wherein it is held as follows:

“ 25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a “right to receive maintenance out of an estate” and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and



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protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after advertting to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. The appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-inlaw. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner."

6. In view of the above, the second respondent can very well order for eviction when the petitioner failed to maintain the third respondent and also driven the third respondent from the house owned by the third respondent.



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7. Therefore, this Court finds no infirmity or illegality in the order passed by the second respondent, dated 24.09.2024 and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. However, the time for eviction is extended till 02.12.2024. Consequently, connected Miscellaneous petition is closed. No costs.

28.10.2024

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

G.K.ILANTHIRAIYAN. J.

mn



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To

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