



W.P(MD)No.2698 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.2698 of 2021

and

W.M.P.(MD)No.2222 of 2021

P.Chinnathambi

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Sattur Sub Divisional Administrative
Judge cum Revenue Divisional Officer,
Sattur,
Virudhunagar District.

3. C.Sivakumar

4. The Inspector of Police,
Sattur Town Police Station,
Sattur Town,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records of the impugned order of the first respondent in Na.Ka.C4/34874/2019 dated 22.01.2021 and quash the same as illegal and consequently directing the fourth respondent to implement the order of the second respondent in Ni.Mu.A1/1970/2018 dated 26.02.2019.

For Petitioner : Mr.M.Kannan

For R1 & R2 : M/s.K.Christy Theboral
Additional Government Pleader

For R3 : Mr.P.Athimoola Pandian

For R4 : M/s.M.Aasha
Government Advocate (Crl. Side)

ORDER

The Writ Petition is directed against the order dated 22.01.2021 passed by the first respondent, setting aside the order passed by the second respondent dated 26.02.2019.

2. Admittedly, the writ petitioner is the father of the third respondent. The writ petitioner has filed a petition under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter called as 'the said Act') for taking action against the third respondent alleging that the third respondent has grabbed his property



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illegally. The second respondent conducted an enquiry and passed an order dated 26.02.2019 (signed on 04.03.2019), directing the third respondent to vacate from the property and hand over the vacant possession of the same to the writ petitioner within a period of one month. Aggrieved by the said order of the second respondent, the third respondent has preferred an appeal before the first respondent and the first respondent, after considering the appeal, has passed the impugned order dated 22.01.2021 setting aside the order passed by the second respondent. Challenging the said order, the father Chinnathambi has preferred the present writ petition.

3. The learned counsel appearing for the writ petitioner would submit that the very filing of the appeal before the first respondent is not legally maintainable as Section 16 of the said Act contemplates for filing of the appeal only by senior citizen or parent, who is aggrieved by an order of the Tribunal. He would rely on the judgment of the Hon'ble Division Bench of this Court in the case of ***K.Raju Vs. Union of India and others*** reported in ***2021 (2) CTC 129***, wherein, the Hon'ble Division Bench has observed,



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“9. When the clear words of a statute do not permit any other meaning or interpretation, particularly when it pertains to a right of appeal, additional words cannot be read into the provision to discover a right in favour of a class of persons excluded by necessary implication in the appellate provision. When the words used in Section 16 of the Act are “Any senior citizen or a parent ... aggrieved by order of a Tribunal may ... prefer an appeal...” and the other words govern the time or describe the senior citizens or the parent in the alternative, there is no room to imagine that others aggrieved by an order of the tribunal may also prefer an appeal on the ground that the scales must be balanced between the two sides.”

4. In the case on hand, since the appeal came to be filed by the son against whom order came to be passed by the second respondent, he cannot be considered as an aggrieved person. Applying the plain meaning of Section 16 of the said Act and also the judgment of the Hon'ble Division Bench of this Court, this Court has no hesitation to hold that the appeal filed before the first respondent cannot legally be entertained and as such, the order passed in the appeal without jurisdiction cannot be sustained.



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5. The learned counsel appearing for the third respondent would submit that after coming to know about the Hon'ble Division Bench decision, the third respondent has already filed a writ petition in W.P. (MD)No.6814 of 2024 before this Court challenging the order passed by the second respondent dated 26.02.2019 and a learned Judge of this Court vide order dated 25.03.2024 has granted interim stay. He would further submit that the third respondent may be given liberty to proceed with the writ petition, which was filed challenging the order passed by the second respondent.

6. In the result, this Writ Petition is allowed and the impugned order dated 22.01.2021 passed by the first respondent is set aside. The third respondent is at liberty to proceed with the writ petition in W.P. (MD)No.6814 of 2024 filed to impugn the order of the second respondent. Consequently, connected Miscellaneous Petition is closed. No costs.

07.06.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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K.MURALI SHANKAR, J

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To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Sattur Sub Divisional Administrative
Judge cum Revenue Divisional Officer,
Sattur, Virudhunagar District.
3. The Inspector of Police,
Sattur Town Police Station,
Sattur Town,
Virudhunagar District.

Order made in
W.P.(MD)No.2698 of 2021
and
W.M.P.(MD)No.2222 of 2021

Dated : 07.06.2024