



W.P(MD)No.5971 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5971 of 2024

and

W.M.P.(MD)No.5727 of 2024

R.Kamala

... Petitioner

Vs.

1.The Collector,
Collector Office,
Tuticorin, Tuticorin District.

2.R.Parthipan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Moo.Mu.(C1)/e-518247/2022 dated 14.12.2023 passed by the 1st respondent and quash the same and thereby direct the 2nd respondent to pay Rs.50,000/- for 10 months as maintenance to this petitioner from the date of her maintenance petition.

For Petitioner : Mr.B.Rajesh Saravanan

For Respondents : Mr.V.Nirmal Kumar
Government Advocate for R1



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ORDER

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Heard both sides.

2. The petitioner is the mother of the second respondent. The second respondent had already filed a partition suit against the petitioner and others and obtained preliminary decree in his favour. The petitioner has since filed first appeal before the Madurai Bench of the Madras High Court and it is said to be pending. In the meanwhile, the petitioner filed maintenance petition before the tribunal. The tribunal vide order dated 20.09.2021 directed the second respondent herein to pay a sum of Rs.5,000/- per month towards maintenance. Questioning the same, the petitioner filed appeal before the District Collector, Tuticorin. Vide order dated 14.12.2023, the appeal was dismissed. Challenging the same, the writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. The learned counsel appearing for the second respondent submitted that the impugned order does not call for interference.



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5. I carefully considered the rival contentions and went through the materials on record.

6. The petitioner is an 86 year old woman. She has been granted only a sum of Rs.5,000/- per month. The second respondent has not filed any material before the Tribunal or the appellate authority indicating his source of income or financial wherewithal. It is true that apart from the second respondent, the petitioner has two daughters. The petitioner being an 86 year old woman obviously will have to incur medical expenditure. She may also need a caretaker or caregiver. A sum of Rs.5,000/- would be awfully insufficient. Of-course, the petitioner can obtain support from her daughters also. That cannot absolve the second respondent of his liability. The second respondent is therefore directed to pay a sum of Rs.7,500/- per month. This liability of the second respondent will commence from 01.04.2024. The learned counsel for the petitioner alleges that the second respondent has not paid any maintenance amount from October 2022. If that be so, the second respondent is directed to clear the arrears within two weeks from the date of receipt of a copy of this order. If the second respondent fails to clear the arrears by then, it is open to the petitioner to move the maintenance tribunal for



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execution of the order. The maintenance order shall accord highest priority to recover the arrears from the second respondent. It is not in dispute that the property bearing Door No.107J, Millarpuram, Tuticorin is in the name of the petitioner.

7. The case of the second respondent is that the property was purchased in the name of the petitioner by his father Thiru.Raja Sekaran. The petitioner's case is that it is her absolute property. This is the subject matter of the litigation between the parties. Be that as it may, even if I endorse the case of the second respondent, the petitioner will be entitled to right of residence in the said house. I declare that the petitioner is also entitled to right of residence in the aforesaid residential premises. It would be better if the second respondent himself earmarks a portion for the petitioner to reside therein.

8. With this declaration in favour of the petitioner and also enhancing the maintenance amount from Rs.5,000/- to Rs.7,500/-, the Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2024

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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