



W.P.(MD).No.12886 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **10.01.2025**

CORAM

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD).No.12886 of 2022

and

W.M.P.(MD)Nos.9142 and 9143 of 2022

A.Ebenesar Jebaraj

... Petitioner

Vs.

- 1.The District Collector /
The Maintenance and Welfare of
Parents and Senior Citizen's Appellate Tribunal,
Kanyakumari Collectorate,
Nagercoil-629 001.
- 2.The District Superintendent of Police,
29, Acharimar South, 2nd Street,
Meenakshipuram, Vadiveeswaram,
Ozhuginasery, Nagercoil,
Kanyakumari District-629 001.
- 3.The Revenue Divisional Officer,
5CHF+QP2, Vettunimadam,
Nagercoil,
Kanyakumari District-629 001.



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4.The Tahsildar,
Collector's Bungalow,
SH 46, Kurusady,
Agasteeshwarm, Nagercoil,
Kanyakumari District-629 001.

5.The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.

6.Augustin

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the respondent No.1 vide Na.Ka.C3/35254/2021 dated 18.05.2022 and quash the same as illegal.

For Petitioner : Mr.G.Anto Prince

For R-1, R-3 & R-4: Mr.D.S.Neduncheliyan,
Government Advocate

For R-2 & R-5 : Mr.K.Gnanasekaran,
Government Advocate

For R-6 : Mr.T.Selvakumaran



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ORDER

Challenging the order passed by the 1st respondent dated 18.05.2022 as well as the 3rd respondent, allowing the petition filed by the 6th respondent under Section 5 of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007, (Hereinafter referred to as “Act”), this writ petition is filed.

2. The 6th respondent is the father of the petitioner and the owner of the house bearing Door No.14-56, Near Government Middle School, Keezha Asaripallam, Kanyakumari District-629 201, in a campus consisting an area of 17 cents of land. The 6th respondent is blessed with the petitioner, that is a son and two other daughters. The 6th respondent retired from Co-operative Department and is receiving a monthly pension of Rs.1,000/- (Rupees Thousand only) only. After the death of his wife, the petitioner had forcibly thrown away the 6th respondent and he was sent out of his own house. Hence, he made an application under Section 5 of the Act before the 3rd respondent. Appreciating the facts and appropriate enquiry and after giving opportunity to the parties concerned, the 3rd respondent passed a favourable order to the 6th respondent herein, directing the petitioner herein to vacate the house belonging



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to the 6th respondent within a period of 15 days from 27.09.2021. The said order was challenged by filing an appeal before the 1st respondent by the petitioner and the 1st respondent, after considering the facts and circumstances of the case, on 18.05.2022 confirmed the order passed by the 3rd respondent. Challenging the same, this writ petition is filed.

3. The learned counsel appearing for the 6th respondent vehemently submitted that the petitioner is doing a contract business and his wife is working as a staff nurse in Asaripallam Medical College. As early as on 21.10.2020, the petitioner and his wife purchased a property comprising an area of 5.370 cents land in Vemanur Village, Agastheeswaram Taluk, and constructed a huge house therein. Despite the same, the petitioner together with his wife witch-hunted the 6th respondent out of his own house and chased him away from his house. At his old age, the 6th respondent is left in lurch in the streets. Therefore, the learned counsel for the 6th respondent pressed for dismissal of the writ petition.



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4. No doubt, the house property bearing Door No.14-56, Near Government Middle School, Keezha Asaripallam, Kanyakumari District-629 201, belongs to the 6th respondent and he is the absolute owner in title of the same. However, due to the malafide intention of the petitioner and his wife, he is chased out of his own house. In view of the same, I do not find any infirmity in the order passed by the 3rd respondent as confirmed by the 1st respondent.

5. The 1st respondent ought to have considered that the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007, do not permit the children to file an application under Section 5 of the Act. Only the senior citizen concerned is vested with the right of appeal under the said Act. In view of the same, the 1st respondent ought to have dismissed the said appeal at the threshold.

6. Since no favourable order is passed in favour of the petitioner, this Court is of the considered view that the order passed by the 3rd respondent has become final and the same need not be interfered with. However, considering the fact that neither the 3rd respondent nor the 1st respondent have not addressed



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anything on grant of maintenance, though not claimed by the 6th respondent, I am of the considered view that the same should be awarded.

7. In view of the above, the 5th respondent is hereby directed to take necessary steps to evict the petitioner from the 6th respondent house bearing Door No.14-56, Near Government Middle School, Keezha Asaripallam, Kanyakumari District-629 201, with the aid of the 5th respondent, within a period of one (1) week from the date of receipt of a copy of this order. Since the learned counsel appearing for the sixth respondent has not provided the account number of the sixth respondent, the petitioner is directed to pay monthly maintenance of Rs.5,000/- (Rupees Five Thousand only) on or before 5th of every english calendar month, through money order to the sixth respondent.

8. With the above direction, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2025

NCC : Yes / No
Index : Yes / No
Sm/Sml



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L.VICTORIA GOWRI, J.

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