



W.P.(MD)No.24949 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.10.2024**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24949 of 2024

and

W.M.P(MD).No.21248 of 2024

P.Balachandar

. . . Petitioner

Vs.

1.The District Collector/Appellate Authority,
(Under the Maintenance and Welfare of Parents
and Senior Citizens Act),
Tirunelveli District, Tirunelveli.

2.The Revenue Divisional Officer/Presiding Officer,
(Under the Maintenance and Welfare of Parents
and Senior Citizens Act)
Tirunelveli Revenue Division,
Tirunelveli, Tirunelveli District.

3.Amutha

... 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 dated 09.09.2024 passed by the first respondent in Na.Ka.No.1460/A1/2024 and quash the same.

For Petitioner : Mr.N.Pragalathan



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For Respondents : Mr.D.Sadiq Raja (for R1 & R2)
Additional Government Pleader
Mr.S.Selva Aditya (for R3)

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. Mr.D.Sadiq Raja, learned Additional Government Pleader, accepts notice on behalf of the respondents 1 and 2 and Mr.S.Selva Aditya, learned counsel, accepts notice on behalf of the third respondent.

3. It is the case of the petitioner that his father, namely, Palani got married one Jenova Lakshmi, who is the mother of the petitioner. She died in the year 1983 leaving behind the petitioner and his two sisters. Thereafter, the petitioner's father married with the third respondent, namely, Amutha. The said Palani died on 07.12.2013. It is the contention of the petitioner that the subject property(house) belongs to his father and in order to grab the property, the third respondent gave a petition before the second respondent as if she had right over the



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property. The said petition was dismissed relegating the third respondent to approach the civil Court. As against which, the third respondent preferred an appeal before the first respondent and the same was allowed restraining the petitioner to enter into the house without permission of the third respondent. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the petitioner was residing the house. Now, with the help of the police, he has been evicted and the third respondent is in possession of the property.

5. Admittedly, the relationship is not in dispute. The third respondent is the second wife of Palani, father of the petitioner. The marriage solemnized between the third respondent and the said Palani is also after the death of his first wife. In such view of the matter, the legal heirship is not in dispute and the entire dispute is with regard to the claim right over the property. Hence, as the third respondent is now residing in the house, it is for the petitioner to workout his remedy in the proper manner by filing a suit for partition. It is also made clear that any



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finding recorded by the authority that will not bind on the civil Court.

The civil Court shall decide the issue on its own merits.

6. With the above observation, this Writ Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

22.10.2024

Index : Yes / No

NCC : Yes / No

Rmk

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N.SATHISH KUMAR, J.

Rmk

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