



W.P.No.1828 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.1828 of 2024

and

W.M.P.Nos.1895 and 1898 of 2024

P.Jayanthi

... Petitioner

Vs

1. The District Collector,
Welfare of Parents' Senior Citizen and
Administrative Tribunal Office of Welfare Act,
Coimbatore.
2. The Revenue Inspector,
Coimbatore South,
Coimbatore District.
3. The Superintendent of Police,
Coimbatore,
Coimbatore District.
4. The Tahsildar,
Madukarai Taluk,



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Coimbatore District.

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5. The Inspector of Police,
Chettipalayam Police Station,
Coimbatore District.

6. Balakrishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India seeking to issue Writ of Certiorari to call for the entire records in relation to the order passed by the 2nd respondent in Pa.Mu.6010/2023/A1 dated 25.10.2023 and confirmed by the 1st respondent in Na.Ka.No.1560065/2023/U.2 dated 04.01.2024, quash the same.

For Petitioner : Mr.C.Veera Raghavan

For Respondents : Mrs.S.Anitha
Special Government Pleader for R1 to R5
Mr.M.Desingu for R6

ORDER

The instant case demonstrates the abuse to the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007.



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2. This writ petition has been filed by the petitioner claiming to be the daughter-in-law of the sixth respondent, a senior citizen. The facts of the case as set out in the affidavit filed in support of the writ petition are herein below stated :

a)The petitioner had married one Prakash on 05.3.1999 as per the Hindu rites and customs. He is the eldest son of 6th respondent. The sixth respondent also had another son named Shanmugam and a daughter named Girija. The marriage between the petitioner and said Prakash was an arranged marriage. The couple had no issues. The sixth respondent, alleging that no child was born to the petitioner out of their wedlock, had forced the petitioner's husband to contract a second marriage. By consent, the couple who had fallen apart had got divorced in the year 2010.

b)The petitioner would submit that though they were separated by divorce proceedings, it was only on papers. Subsequently, the petitioner and her husband got married once again on 20.02.2011 at Arulmighu Mariamman



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Temple, Malumichampatti, Madukarai Taluk, Coimbatore, in the presence of the sixth respondent and his family members.

c)At that relevant point of time, COVID pandemic has seized the country. The petitioner's husband had become unemployed and had faced financial problems during this period, owing to which, he committed suicide on 15.02.2021.

d)On 03.06.2023, the sixth respondent had preferred a complaint before the second respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [hereinafter called as 'Act'], requesting to evict the petitioner from the property and to hand over possession. It is also alleged in the complaint that he is the legal heir of the deceased Prakash and hence, claims right over the property.

e)The petitioner would submit that the property which is the subject matter of claim by the sixth respondent, was purchased by her and her husband late Prakash, under a registered sale deed dated 24.11.2004. The property was purchased as a vacant site. Thereafter, in a portion thereof, the petitioner and her husband had constructed a house in the year 2007. Subsequently, in the



remaining portion of the vacant site, a house with ground and first floor was constructed in the year 2010 by the petitioner and her husband.

f)The petitioner and her husband was residing in the portion constructed in the year 2010 and they have let out the other portion for rent. After the death of her husband, the petitioner continued to reside in the said property.

g)The petitioner denied the claim of the sixth respondent that he had helped the petitioner and her husband financially for purchase of the property and for the construction of the property.

h)The petitioner would submit that on the demise of her husband, she had obtained a legal heir certificate from the Tahsildar, Madukkarai, declaring her as the sole legal heir of the deceased Prakash, and this fact was well known to the sixth respondent and the siblings of her late husband. The petitioner would submit that she and her husband were the absolute owners of the property and after the death of her husband, she became the owner of the property. The sixth respondent has no right to deal with the property. However, on account of recent enmity between the petitioner and the sixth respondent, the sixth



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respondent had preferred a complaint before the second respondent.

i)The petitioner would submit that this petitioner and her brother-in-law Shanmugam had been paying Rs.1,500/- each to the sixth respondent every month for his maintenance. That apart, she is also taking care of the sixth respondent's medical expenses and other needs. This maintenance amount was further enhanced to Rs.2,500/- per month, at the instance of the fifth respondent, and as agreed, the petitioner and the said Shanmugam continued to pay Rs.2,500/- each to the sixth respondent every month.

j)The petitioner would submit that with a view to grab the property, the sixth respondent has preferred a petition under the Act before the second respondent.

The second respondent after hearing the parties, for the reasons best known to him, vide proceedings dated 25.10.2023 had allowed the claim of the sixth respondent dated 03.06.2023, and directed the petitioner herein to vacate the dwelling house and to hand over possession to the sixth respondent.

k)Aggrieved by the proceedings of the second respondent dated 25.10.2024, the petitioner preferred an appeal before the first respondent. The first respondent



by the impugned proceedings dated 04.01.2024, confirmed the order passed by the second respondent.

Hence, the petitioner is before this Court, challenging the said proceedings.

3. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the official respondents and also the learned counsel appearing for the sixth respondent.

4. Admittedly the property in question was purchased by the petitioner and her late husband Prakash, under a registered sale deed dated 24.11.2004. The petitioner therefore is the co-owner of the property. During the course of arguments, the counsel for the petitioner would submit that the petitioner had executed a Power of Attorney in favour of her husband on 27.10.2010, in order to give her husband the authority to sell her share in the property. Pursuant to this Power of Attorney, on 03.11.2010, the petitioner's husband for himself and as the Power Agent for the petitioner, had sold a portion of the property to his



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sister Girija and retained the remaining portion for the property for their dwelling. It also appears that the sixth respondent and his daughter Girija have

filed O.S.No.8 of 2023 on the file of District Munsif Court, Madukkarai, to declare that (a) the sixth respondent is the legal heir of the deceased Prakash and owner of the property; (b) to direct the petitioner herein to vacate the suit property as the permission was revoked on 01.09.2021, six months after the death of Prakash and to deliver the suit property to the sixth respondent herein and (c) for the relief of permanent injunction as against the petitioner herein.

Simultaneously, in the said suit, a detailed written statement has been filed by the petitioner herein, as the defendant to suit in O.S.No.8/2023. While so, a petition appears to have been filed by the sixth respondent under Section 23 of the Act, before the second respondent seeking to evict the petitioner from the subject property stating that he is the only legal heir of the deceased Prakash and the property belongs to him absolutely. The second respondent has passed an order on 25.10.2023 directing the petitioner herein to vacate the property on or before 30.11.2023. Aggrieved by the order of the second respondent, the



petitioner had preferred an appeal before the first respondent and the said authority by an order dated 04.01.2024, had confirmed the order passed by the second respondent dated 25.10.2023, and it had also directed that a failure on the part of the petitioner herein to comply with the order, an action would be initiated under Section 24 of the Act.

5. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, would read as follows :

23. Transfer of property to be void in certain circumstances :-

(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out



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of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2); action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section(1) of Section 5.

Therefore, in order to invoke the provisions of Section 23 of the Act, the following ingredients are essential :

(a) the person invoking the Act should be a Senior Citizen as defined in Section 2(h) of the Act;

(b) the senior citizen, after the commencement of the Act, should have transferred his/her property by way of gift or otherwise and such transfer is on the condition that the transferee should provide basic amenities and basic



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physical needs.

That apart, the provisions of Section 23(2) can be invoked only in the following circumstances :

- (a) where the senior citizen has a right to receive maintenance out of an estate and such estate or part thereof has been transferred;
- (b) the transferee has notice of the right; and
- (c) the transfer is gratuitous.

6. If the facts of this case is analysed, it is clear that there has been no transfer effected by the sixth respondent, the senior citizen. On the contrary, the property, which is a vacant land originally, was purchased by the petitioner and her husband by virtue of a sale deed dated 24.11.2004. Thereafter, the petitioner and her husband had raised a construction in a portion of the property in the year 2007. Subsequently, in the year 2010, the petitioner had her husband had constructed another building in the remaining portion of the property. Be



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that as it may, the petitioner and her husband sold one of the constructed property to her sister-in-law Girija on 03.11.2010, retaining the other property for themselves. On the death of her husband, the petitioner would be sole legal heir of the deceased Prakash to inherit his estate, if the marriage between the petitioner and her husband Prakash is existing as claimed by her. Therefore, none of the ingredients set out in Section 23(1) and 23(2) of Act is applicable in the present case. In the said scenario, the very order passed by the second respondent on 25.10.2023 is without jurisdiction and has to be quashed. Accordingly, the subsequent order of the first respondent dated 04.01.2024 confirming the order of the second respondent dated 25.10.2023, is unsustainable. That apart, the sixth respondent and his daughter Girija have already moved the civil Court for the very same relief. Therefore, the impugned orders are liable to be set aside and accordingly, the impugned orders are set aside.



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7. In the light of the above, the writ petition stands allowed. No costs.

Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order
ds

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P.T. ASHA, J.

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