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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.39163 of 2024

Guhappriya Jayaraman

.. Petitioner

Vs.

1.The District Collector cum Appellate Tribunal,
Maintenance and Welfare of Senior Citizen Act,
Coimbatore.

2.The Revenue Divisional Officer cum Tribunal,
Maintenance and Welfare of Senior Citizen Act,
Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the 1st respondent in Pa.Mu.No.CLRREV/ 6151/ 2024/ U2 dated 19.11.2024 and to quash the same and consequently direct the 1st respondent to entertain the appeal preferred by the petitioner dated 20.09.2024 as against the order dated 07.11.2023 passed by the 2nd respondent under Maintenance and Welfare of Parents and Senior Citizens Act 2007 within the time stipulated by this Court.

For Petitioner

.. Mr.M.Mohamed Riyaz

For Respondents

.. Mr.M.R.Gokul Krishnan
Additional Government Pleader



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ORDER

This writ petition has been filed in the nature of certiorarified mandamus seeking interference with the proceedings of the 1st respondent, District Collector cum Appellate Tribunal and the Maintenance and Welfare of Senior Citizen Act, 2007 in Pa.Mu.No.CLRREV/ 6151/ 2024/ U2 dated 19.11.2024 and direct the 1st respondent to entertain an appeal filed by the petitioner on 20.09.2024 questioning an order dated 07.11.2023 passed by the 2nd respondent, the original authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2.The petitioner is the daughter of the senior citizen/father who had given a complaint to the 2nd respondent stating that the Settlement Deed which he had executed in favour of the petitioner should be cancelled seeking recourse to the provision under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The father was aged 95 years at the time of preferring the complaint. The said complaint was examined by the 2nd respondent and by an order dated 07.11.2023, his order found favour with the allegations raised by the complainant and the Settlement Deed was cancelled.



3.The petitioner had filed an appeal under Section 16 of the Act before the 1st respondent/Appellate Tribunal. The petitioner is a permanent resident of the United States of America and therefore, had sought to be represented by a Power of Attorney agent. That particular document though executed in United States of America had not been properly adjudicated within this country. The impugned letter dated 19.11.2024 has raised two issues viz., that the petitioner cannot be represented by an Agent and that even if permitted to be represented by an agent the document authorising such representation, had not been properly adjudicated. So far as the right to be represented by an agent is concerned, the learned counsel for the petitioner placed reliance on the proviso to Section 16(5) of the Act which stipulates that an appeal should not be disposed of without giving opportunity to all the parties or their authorised representative of being heard. Therefore, the petitioner can be lawfully represented by a Power of Attorney agent. But the further issue is about the document which so authorised the agent to represent the writ petitioner. That document will have to be adjudicated in the manner known to law before it could be considered as a document by the 1st respondent. The learned counsel for the petitioner claims that the petitioner would take necessary steps to adjudicate the Power of Attorney in the manner known to law. If it is done so, then the 1st respondent may take the appeal into consideration.



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4. It is however also represented by the learned Standing Counsel for the 1st and 2nd respondents that the father of the petitioner who was the aged 95 years at the time of giving the complaint has unfortunately expired after passing of the order by the 2nd respondent. The effect of such demise may be examined by the 1st respondent while examining the appeal. The procedure as enunciated by the Act may be followed. A direction is given that after the petitioner authorize the Power of Attorney, the appeal should be taken up on the file within a period of three weeks and thereafter, examined and proceeded with in accordance with provisions of the law and orders passed within a further period of three months from that date.

5. This writ petition stands disposed of. No Costs.

02.01.2025

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
ssr



To

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Coimbatore.
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C.V.KARTHIKEYAN,J.

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