



W.P(MD)No.12403 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

CORAM :

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P(MD)No.12403 of 2024

and

W.M.P(MD)No.10983 of 2024

Preethi Singh

... Petitioner

Vs

**1. The Revenue Divisional Officer/presiding Officer,
(Under the Maintenance and Welfare of Parents and
Senior Citizens Act),
Nagercoil Revenue Division,
Nagercoil,
Kanniyakumar.**

**2. The Inspector of Police,
Anjugramam Police Station,
Anjugramam,
Kanniyakumari District.**

3. Rajam Daisy

4. Jereen Perpet

... 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



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records pertaining to the impugned order dated 10.05.2024 passed by the 1st respondent in Mu.Mu.Aa5/1533/2024 and quash the same.

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For Petitioner : Mr.K.Muthurakkan

For R1 and R2 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

For R3 : Mr.L.Jeen Felix

ORDER

This Writ Petition has been filed seeking to quash the impugned order, dated 10.05.2024, passed by the first respondent in Mu.Mu.Aa5/1533/2024.

2.The learned Counsel for the petitioner would submit that the third respondent is the mother-in-law of the petitioner and the fourth respondent is the husband of the petitioner. Out of the wedlock, a female child born to them. After the marriage with the fourth respondent, both were residing at Chennai. The fourth respondent used to harass the petitioner by demanding more dowry. In the mean time, in the month of November 2019, the fourth respondent left the petitioner at



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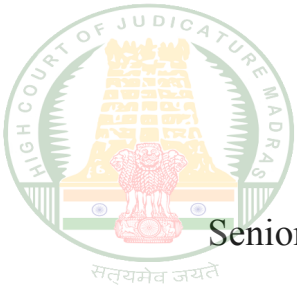
her parents home. Thereafter, in the year 2020 a plot was purchased in the name of the third respondent by pledging the jewels of the petitioner and now, the petitioner along with her child are residing one of the rooms in the third respondent's house. Since some dispute arose between the petitioner and her husband, she is residing at Chennai and the petitioner is residing in the house purchased in the name of the third respondent, which was purchased by pledging the petitioner's jewels. The petitioner also filed a petition in D.V.O.P.No.8 of 2024, on the file of the learned Judicial Magistrate, Additional Mahila Court, Nagercoil under the Protection of Women from Domestic Violence Act and the same is pending. While so, the third respondent filed a petition before the first respondent under the Maintenance and Welfare of Parents and Senior Citizens Act. Thereafter, the third respondent also filed a writ petition in W.P(MD)No.5213 of 2024 and this Court disposed of the same on 06.03.2024 and thereafter, the first respondent passed an order, dated 10.05.2024, directing the petitioner to vacate the premises since the said house is in the name of the third respondent. Since there is no appeal provision against that order, now this writ petition has been filed by challenging the said order. The first respondent without considering the matrimonial dispute pending between the petitioner and the fourth



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respondent and the petitioner also contributed for the purchase of the above said house passed the order. Though, the first respondent passed order that Maintenance and Welfare of Parents and Senior Citizens Act would not attract, he directed the police to take action against the petitioner. Therefore, the order passed by the first respondent is liable to be set aside.

3.The learned Counsel appearing for the third respondent would submit that there is a matrimonial dispute pending between the son of the third respondent, namely, the fourth respondent and the petitioner, thereby, the petitioner forcibly occupied the portion of the property and failed to vacate the property. In fact, the third respondent only purchased the property and she was residing there. While so, she went to Chennai for taking treatment to her husband and thereafter, when she went to the house, she noticed that the house was opened by someone else and thereafter, she came to know that the petitioner was residing there without the knowledge of the third respondent. When the same was questioned by the third respondent, the petitioner abused the third respondent and attempted to assault her. Therefore, she filed a petition before the Tribunal under the Maintenance and Welfare of Parents and



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Senior Citizens Act. The Tribunal also passed order, dated 10.05.2024

directing the petitioner to vacate the premises. However, the third respondent sought for police protection and the same was not considered by the respondent police, thereby, she also filed a separate writ petition for police protection and the same is also pending. Therefore, this writ petition is liable to be dismissed.

4.Heard both sides and perused the records.

5.In this case, there is a family dispute pending between the parties and the petitioner is none other than the daughter-in-law of the third respondent and the wife of the fourth respondent. According to the petitioner, the third respondent purchased the house property in her name and the petitioner also contributed money for purchase of the said property and the fourth respondent failed to maintain the petitioner and their daughter and thereby, she is residing in one portion of the property, which was purchased in the name of the third respondent. Then, the third respondent filed a petition before the Parents and Senior Citizens Maintenance and Welfare Tribunal, Nagercoil and the same was allowed by directing the petitioner to vacate the premises. According to the third



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respondent, the property was purchased by her and the petitioner did not contribute anything and she forcibly occupied the portion of the property and thereby, she approached the tribunal and the Tribunal also passed order to vacate the premises.

6.This Court also perused the order passed by the Tribunal. The Tribunal after elaborate discussion, came to the conclusion that the Maintenance and Welfare of Parents and Senior Citizens Act is not attracted in this case. However, the property was occupied by the petitioner and thereby, directed the police to take appropriate action. It is an admitted fact that the petitioner filed a petition under the Protection of Women from Domestic Violence Act and the same is pending in DVOP No.8 of 2024, on the file of the learned Judicial Magistrate, Additional mahila Court, Nagercoil. During the pendency of that application, the first respondent has passed, the impugned order by directing the police to take appropriate action against the petitioner. In the order, the Tribunal came to conclusion that the Maintenance and Welfare of Parents and Senior Citizens Act would not attract in this case. Once the Tribunal came to conclusion that the Maintenance and Welfare of Parents and Senior Citizens Act is not attracted, the first respondent cannot direct the



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police to take action against the petitioner herein. The third respondent has also not challenged the order passed by the Tribunal as against the observation that no Maintenance and Welfare of Parents and Senior Citizens Act is attracted. Therefore, the police cannot take any action and the competent Court, where the petition in D.V.O.P.No.8 of 2024 is pending, has to take appropriate decision in this regard as to whether the petitioner is entitled to reside or not. Since the case is pending before the learned Judicial Magistrate, under the Protection of Women from Domestic Violence Act, the order passed by the first respondent is without jurisdiction. Till the disposal of the D.V.O.P.No.8 of 2024 on the file of the learned Judicial Magistrate, Additional Mahila Court, Nagercoil, the petitioner cannot be evicted by the police.

7. Therefore, this Writ Petition is disposed of in the above said terms. Consequently, the connected miscellaneous petition is closed.

14.03.2025

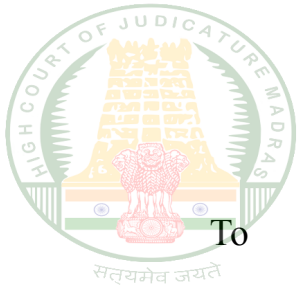
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To

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Kanniyakumari District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

LR

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