



W.P.(MD).No.23965 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23965 of 2022

P.Neelavathi

... Petitioner

Vs.

1.The District Collector / Appellate
Tribunal,
For Senior Citizen Maintenance and
Welfare,
Thanjavur District, Thanjavur.

2.The Revenue Divisional Officer /
Tribunal,
For Senior Citizen Maintenance and
Welfare,
Kumbakonam, Thanjavur.

3.Gurunathan

4.The Inspector of Police,
Patteeswaram Taluk,
Thanjavur district.

... Respondents

*(R-4 is suo-motu impleaded vide Court order dated 27.01.2025 made
in W.P.(MD)No.23965 of 2022)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the 1st
respondent to implement the order passed by him vide proceedings in



W.P.(MD).No.23965 of 2022

Na.Ka.No.13321/2020/G2 dated 17.08.2021 as per the powers vested with him under Section 22 of “The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and consequently to direct the 1st respondent to take necessary steps in directing the specified officer subordinate to him to evict the 3rd respondent from the house property in Door No.3/557, Middle Street, Thenampadugai Post, Via Patteeswaram, Kumbakonam Taluk, Thanjavur District belongs to the petitioner within the time period that may be stipulated by this Court.

For Petitioner	: Mr.P.Yasmin Begum
For R-1 & R-2	: Mr.A.Kannan, Additional Government Pleader
For R-3	: Mr.M.Suresh Kumar

ORDER

Heard the learned counsels on either sides and carefully perused the materials available on record.

2.This writ petition is filed seeking to direct the 1st respondent to implement the order passed by him vide proceedings in Na.Ka.No. 13321/2020/G2 dated 17.08.2021 as per the powers vested with him under Section 22 of “The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and consequently to direct the 1st respondent to take necessary



W.P.(MD).No.23965 of 2022

steps directing the specified officer subordinate to him to evict the 3rd respondent from the house property in Door No.3/557, Middle Street, Thenampadugai Post, Via Patteeswaram, Kumbakonam Taluk, Thanjavur District.

3.The petitioner is the mother of the 3rd respondent who is a senior citizen of age 73 years. The petitioner's husband Thiru.Late.Palani was working as Assistant Director in Ex-Servicemen Welfare Department, Thanjavur district, and he passed away on 15.10.2018. One of his daughter namely, Tmt.Uma Devi, pre-deceased him as early as in the year 2006. The petitioner's husband was survived by his wife, that is, the petitioner and five children, namely, Tmt.Selvi, Thiru.Kumara Vadivel, Thiru.Balamurugan, Thiru.Shanmugasundaram and Thiru.Gurunathan, that is, the 3rd respondent. The 3rd respondent is the eldest son of the petitioner and her husband Thiru.Late.Palani. On 15.10.2018 when Thiru.Late.Palani expired, the petitioner's first son, that is, the 3rd respondent visited the petitioner's house for attending the funeral of his father and thereafter he started living along with his family comprising his wife and two children in the upstairs portion of the petitioner's house without the permission of the petitioner. In due course of time, he started troubling the petitioner to the extent that she



W.P.(MD).No.23965 of 2022

WEB COPY

could not continue her peaceful life in the downstairs portion of the house property wherein she was residing in door No. 3 / 557 Middle Street, Thenampadugai post of Kumbakonam Taluk.

4.Hence, the petitioner filed a complaint before the 2nd respondent on 15.02.2019 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and filed a civil suit in O.S.No. 219 of 2019 as against the 3rd respondent seeking to restrain the 3rd respondent and his men from interfering with the peaceful possession and enjoyment of the house property in door No.3/557 of Middle Street, Thenampadugai post. In I.A.No. 436 of 2019 of O.S.No.219 of 2019 on the file of the District Munsif Judge's Court at Kumbakonam, an interim injunction was granted in favour of the petitioner on 29.04.2019 restraining the 3rd respondent from interfering with the peaceful possession and enjoyment of the said house property. Under such background, the 3rd respondent assaulted the petitioner and she was admitted in the hospital for nearly five days and he also trespassed into her cultivating land with his men and had forcibly taken away the entire black gram crops worth Rs.40,000/- (Rupees Forty Thousand only).



W.P.(MD).No.23965 of 2022

WEB COPY

5. In this regard, two first information reports in Crime No.147 of 2019 and 41 of 2020 came to be registered on 29.09.2019 and 26.02.2020 as against the 3rd respondent by the Inspector of Police, Patteeswaram Police Station, Thanjavur. In the meanwhile, the 2nd respondent, by an order dated 25.04.2020 after conducting an elaborate enquiry passed an order directing the 3rd respondent to vacate the upstairs portion of the subject house and hand over the possession of the same back to the petitioner and seek his remedy by filing an appropriate suit for partition before the competent Civil Court.

6. Aggrieved by the order, the 3rd respondent filed an appeal petition before the 1st respondent and pending the said proceedings, he also filed a parallel writ petition in W.P.(MD)No. 12354 of 2020, challenging the order passed by the 2nd respondent and this Court, by its order dated 07.01.2021 partly allowed the writ petition of the 3rd respondent and the relevant portion of the said order is extracted as follows.

“3. When the matter came up for admission before this Court, this Court extracted an undertaking before the petitioner that at no point of time, he will harass his mother in any manner. The petitioner's counsel states that this undertaking can be made absolute.” Further..



W.P.(MD).No.23965 of 2022

WEB COPY

6. With the observations and recording the undertaking of the petitioner that he would not harass the fifth respondent, the order passed by the third respondent directing the eviction of the petitioner is alone set aside and the impugned order is sustained in other aspects. The writ petition is partly allowed. No costs.”

7. It could be precisely understood from a careful perusal of the said order that this Court had partly set aside the portion of order passed by the 2nd respondent directing the 3rd respondent to evict himself from the subject house property. However, the said order was sustained as far as the direction of the 2nd respondent to take appropriate action under the manner known to law if the 3rd respondent indulges in disturbing the peaceful position and enjoyment of the petitioner's property by the petitioner. The said order came to be passed by this Court on the undertaking made by the learned counsel for the 3rd respondent in the aforesaid petition that he will not harass his mother at any point of time. The claim of the petitioner is that taking advantage of the aforesaid order, the 3rd respondent in due course of time had occupied the entire house property and continuously indulged in harassing the petitioner to settle the entire property in his favour.



W.P.(MD).No.23965 of 2022

WEB COPY

8.Further, she was also thrown out of her residence and as of date she has availed herself of a shelter in a rental premises. During the enquiry conducted by the 1st respondent as Appellate Tribunal recording all the facts with evidence on 17.08.2021, the 1st respondent in proceedings in Na.Ka.No. 1332/2020/2 confirmed the order passed by the 2nd respondent *de hors* the order passed by this court in W.P.(MD)No. 12354 of 2020 dated 07.01.2021. It has been insisted by the 1st respondent in the aforesaid order that allowing the request of the 3rd respondent in this regard would create a situation for the other children to raise such a request seeking the petitioner to allow them to occupy the house. In the meanwhile, by judgment dated 25.04.2024, the learned Principal District Judge's Court at Kumbakonam has passed an order of permanent injunction restraining the 3rd respondent, his men, and family from interfering with the peaceful possession and enjoyment of the petitioner with respect to the house property in Door No.3/557, Middle Street, Thenampadugai Post, Kumbakonam Taluk, Thanjavur District.

9.Under such circumstances, the Inspector of Police, Patteeswaram Police Station, Thanjavur, is hereby *suo-motu* impleaded as the 4th respondent in this case. The Government Advocate, (Criminal side)



W.P.(MD).No.23965 of 2022

WEB COPY

Mr.K.Gnanasekaran takes notice for the 4th respondent. Registry is directed to carry out the necessary amendments in the cause title.

10.Upholding the order passed by the 1st respondent in the appeal petition preferred under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, in the matter with respect to the house property in Door No. 3/557, Middle Street, Thenampadugai Post, Patteeswaram via, Kumbakonam, Taluk, Thanjavur District, I hereby direct the 2nd respondent to implement the order of the 1st respondent and the Suo-motu impleaded 4th respondent is directed to give appropriate police protection for the 2nd respondent to implement the order passed by the 1st respondent. I further direct the 2nd respondent to evict the 3rd respondent from the house property situated in Door No.3/557, Middle Street, Kumbakonam Taluk, with the aid of the 4th respondent within a period of one (1) week from the date of receipt of a copy of this order and ensure the peaceful living of the petitioner in the subject property till her last breath. However, the 3rd respondent is given liberty to approach the appropriate Civil Court for ventilating his grievances and seek partition of the joint family property if any.



W.P.(MD).No.23965 of 2022

WEB COPY

11.It is imperative for this Court to discuss the scope of the Welfare Act, namely the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Whenever a Court tends to interpret a beneficial legislation like the one which has been enacted for the Welfare of Senior Citizens and Maintenance of Parents, the interpretation made by the Court should be in consonance and in synchronization with the object of the said Welfare Act. I have no hesitation to hold that the Welfare Act, 2007, has been enacted to uphold the dignity and livelihood of senior citizens / parents during their old age in line with Article 51A, which provides for the fundamental duties of the citizens of India. No doubt, in a land where the family system has gained prominence for centuries, it is the bounden duty of the children of every parent in India to take care of their parents and maintain them in terms of Section 2(b) of the Act 2007, which includes provision for food, clothing, residence and medical attendance and treatment while defining the term maintenance.

12.In the instant case, the subject house property belongs to the petitioner senior citizen herself. It is her absolute property in title and the 3rd respondent has managed to do away with the possession of the petitioner with respect to the house property. Hence, the 3rd respondent do not have



W.P.(MD).No.23965 of 2022

any right to continue possession in the upstairs portion of the house property, interfering and meddling with the possessory rights of the petitioner with the said property. In the background of this case, it is the bounden duty of the 3rd respondent to remove himself and his family from the possession of the first floor of the subject house property forthwith and in his failure to do so, it will be the duty of the competent authorities to ensure that the petitioner is residing therein without any hindrance or impediment.

13. Accordingly, the writ petition is allowed. No costs.

27.01.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

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WEB COPY



W.P.(MD).No.23965 of 2022

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.23965 of 2022

27.01.2025