

(2011) 11 MAD CK 0283
In the Madras High Court
Case No : Writ Petition No. 27042 of 2011

K. Narayanasamy

APPELLANT

Vs

The District Collector Chennai District Singaravelar Maligai
Chennai

RESPONDENT

Date of Decision : 24-11-2011

Acts Referred:

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 — Section 10, 8, 9

Citation : (2011) 11 MAD CK 0283

Hon'ble Judges : N. Paul Vasantha Kumar, J

Bench : Single Bench

Advocate : D. Rajagopal, for the Appellant; N. Sakthivel, G.A., for the Respondent

Judgement

Honourable Mr. Justice N. Paul Vasantha Kumar

1. The prayer in the writ petition is to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 3.9.2010 and enquire the same and take action as against petitioner's son under "The Maintenance and Welfare of Parents and Senior Citizens Act, 2007".
2. The learned Government Advocate takes notice for respondents.
3. The case of the petitioner is that he is aged about 80 years and he is having two sons and five daughters. According to him, all his sons and daughters got married and settled in their life. The petitioner owned a house property bearing Door No. 8/21, Gandhi Street, Taramani and his younger son, by name Venkatesan, got the Settlement Deed executed in favor of him allegedly by force in respect of the house property and after execution of the Settlement Deed, the petitioner was allegedly driven out from the said house and his articles were also thrown out and now, he is residing at No. 1, Kennedy Street, Than Thai Periyar Nagar, Taramani, Chennai-113 without any means. The petitioner's wife is no more and he is not able to go to his daughters' place.

4. Another house property was also given to the petitioner's younger son earlier. According to the petitioner, he has no means to maintain himself and his younger son is not paying any amount to the petitioner towards his maintenance. His younger son, namely, Venkatesan has sufficient means and is working abroad and getting good salary and his wife alone is residing in the said house at Taramani and she is not allowing the petitioner to reside in that house. In spite of repeated requests, neither his younger son Venkatesan nor his daughter-in-law extended any help to the petitioner. The petitioner's elder son, by name Sundarababu, is having no means as he is unemployed. Pointing out the above grievances, the petitioner has submitted a representation on 03.09.2010 to the District Collector, Chennai for registering a case against the petitioner's younger son, namely Venkatesan and for ordering maintenance.

5. The respondent-District Collector is vested with power to register a case and proceed against the petitioner's younger son in terms of Section 8 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the Act) to conduct inquiry by summoning the concerned person and order maintenance. Section 9 of the Act clearly states that if children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time direct. The maximum amount shall not exceed ten thousand rupees per month, which can be altered subsequently u/s 10 of the Act.

6. The respondent is a statutory authority bound to take action under the said Act. Keeping the matter for over one year is not an appreciable conduct on the part of the respondent. The petitioner is made to suffer due to inaction on the part of the respondent even after the welfare Legislation is enacted by the Parliament as early as in the year 2007 as Act 56 of 2007. Hence a direction is issued to the respondent to consider the grievance of the petitioner in the light of his representation dated 3.9.2010, followed by legal notice dated 16.8.2011 and order maintenance to the petitioner by following due process of law, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with above direction. No costs.