

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.03.2025

PRONOUNCED ON : 01.04.2025

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.2967 of 2024

and

C.M.P.No.22208 of 2024

K.Gopinathan

... Appellant

Vs.

- 1.The District Collector, Chennai
Cum Appellate Authority,
Under the Maintenance and Welfare of Parents
and Senior Citizens Act, 2007,
M.Singaravelan Maaligai,
62, Rajaji Salai,
Chennai – 600 001.
- 2.The Revenue Divisional Officer (RDO),
Central Chennai,
Chennai 600 101.
- 3.Inspector of Police,
K-4 Police Station,
Anna Nagar,
Chennai.



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4.Malarkodi.K

... Respondents

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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ appeal by setting aside the order dated 22.08.2024 passed in W.P.No.6647 of 2024 and consequently dismiss the writ petition.

For Appellants : Mrs.Chitra Sampath
Senior Counsel
For Mr.T.S.Baskaran

For R1 to R3 : Mr.Vadivelu Deenadayalan
Additional Government Pleader

For R4 : Mr.C.Vidhusan

COMMON JUDGMENT

S.M.SUBRAMANIAM, J.

Dissatisfied with the writ order dated 22.08.2024 passed in W.P.No.6647 of 2024, the present Intra-Court Appeal has been instituted under Clause 15 of the Letters Patent. The 4th respondent in the writ petition is the appellant before this Court.

2. The 4th respondent, Mrs.Malarkodi, a senior citizen, filed a



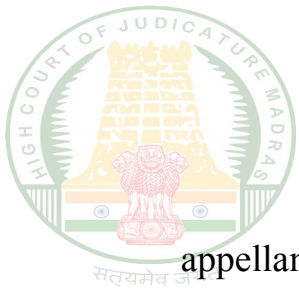
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complaint before the Revenue Divisional Officer (RDO), Central Chennai on 18.07.2023 stating that she has three children - two daughters and one son, and her husband died on 04.02.2019.

3. The senior citizen and her husband resided in their own house and the said property stands in the name of Mrs.K.Malarkodi/senior citizen. The appellant, Mr.K.Gopinathan, the son of the senior citizen, divorced his wife and started living with the senior citizen. After nine years, the appellant married his divorced wife, Mrs.Sindhuja and lived separately in MMDA colony.

4. The Karur property of the family was sold for Rs.5 Crores and the appellant insisted that the entire amount should be paid to him. He harassed the senior citizen, locked her in the house and physically assaulted her. The senior citizen stated in her complaint that she was ill-treated and harassed both physically and mentally.

5. Further, the appellant starting causing trouble to the senior citizen's daughters and their husbands. The senior citizen was driven out of her Anna Nagar house, where she had lived with her husband for several years, and the



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appellant occupied the entire house with his family. The senior citizen has stated that she is living with her elder daughter. The car, which stood in the name of the deceased husband of the senior citizen, was also sold by the appellant without the knowledge of the senior citizen. She filed a police complaint at the Anna Nagar Police Station in C.S.R.No.461 of 2023 and no action has been taken. Thus, the complaint was filed before the Revenue Divisional Officer (RDO).

6. The appellant has given a statement before the Revenue Divisional Officer stating that the property in Karur, which belonged to his father, was sold for Rs.15 Crores. However, the senior citizen only accounted for Rs.5 Crore, and the remaining Rs.10 Crores were allegedly paid to the daughters. In Aminijikarai, the father of the appellant owns 30 houses, generating a rent of Rs.6 Lakhs, which is entirely received by the senior citizen and her two daughters. The appellant states that he resides in the Anna Nagar house and has a share in the other properties. The mother of the appellant is acting under the ill advise of her daughters. Further, the appellant expressed his consent to maintain the senior citizen.

7. The Revenue Divisional Officer, Central Chennai passed final

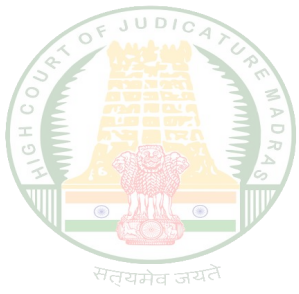


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orders on 04.11.2023 stating that the senior citizen receives substantial rent from the properties, as per the statement of the appellant. Therefore, the grant of maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [herein after referred to as 'Senior Citizens Act'] would not arise at all. However, the orders state that, under Section 23 of the Senior Citizens Act, the appellant must provide all medical expenditures and amenities, along with his sisters.

8. Dissatisfied with the order of the RDO, the senior citizen preferred an appeal before the District Collector, Chennai. The District Collector conducted an independent inquiry and while confirming the orders of the Revenue Divisional Officer, issued a direction stating that the senior citizen should be allowed to reside in her house, at Anna Nagar, where she has lived for several years along with her late husband, since it is her matrimonial home.

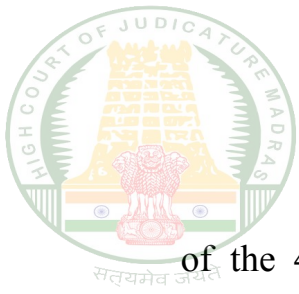
9. The senior citizen filed W.P.No.6647 of 2024, challenging the order passed by the District Collector. The Writ Court elaborately considered the spirit of the provisions of the Senior Citizens Act with reference to the facts established between the parties.



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WEB COPY10. The facts revealed that the senior citizen was driven out of her matrimonial house situated at AL-155, A1 Block 2nd Street, 11th Main Road, Anna Nagar West, Chennai – 600 040 and she is no longer residing there. The appellant allegedly has given a life threat to the 4th respondent/senior citizen, who lodged a Police complaint at K4 Police Station, Anna Nagar. A First Information Report (FIR) in Crime No.321 of 2023 was registered for the offences under Sections 347, 294(b), 323 and 506(2) of Indian Penal Code (IPC). Subsequently, the FIR was closed as mistake of facts on 09.05.2024. Even the 4th respondent was not served with Referred Charge Sheet Notice.

11. The claim of the 4th respondent is that she must be allowed to reside in her matrimonial house, where she lived with her deceased husband and the property stands in her name. Taking note of this fact, the Writ Court passed an order restraining the appellant from in any manner interfering with the peaceful possession and enjoyment of 50% share of the 4th respondent and 1/4th share of her husband in the property situated at AL-155, A1 Block 2nd Street, 11th Main Road, Anna Nagar West, Chennai – 600 040. The appellant was directed not to disturb the peaceful possession and enjoyment

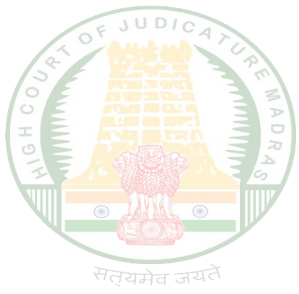


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of the 4th respondent on the ground floor of the subject property of her lifetime. Accordingly, the order of the District Collector was confirmed by the Writ Court. Aggrieved by this order, the appellant preferred the present writ appeal.

12. Mrs.Chitra Sampath, the learned Senior Counsel appearing on behalf of the appellant would mainly contend that under Section 4 of the Senior Citizens Act, a senior citizen, including a parent, who is unable to maintain himself/herself from his/her own earnings or out of the property owned by him/her, shall be entitled to make an application under Section 5. In the present case, it has been consistently established that the senior citizen is receiving a substantial amount of rent from and out of the properties. Therefore, she is capable of maintaining herself and thus, the complaint filed under the Senior Citizens Act is not maintainable.

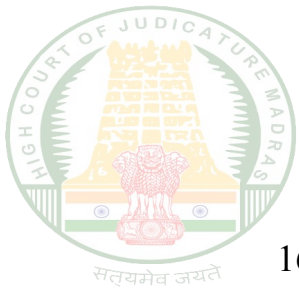
13. The learned Senior Counsel would further submit that the appellant has no objection to allow the senior citizen to reside in the ground floor, since the appellant is residing on the first floor of the Anna Nagar house. Thus, the order of the Writ Court, confirming the order of the District Collector, is infirm, as the complaint itself is not maintainable.



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WEB COPY14. The learned counsel for the 4th respondent/senior citizen would oppose by stating that the family property was sold after the death of her husband in order to settle the loan dues. The 4th respondent and her late husband resided in the residential house at Anna Nagar for several years. After the sudden demise of her husband, the 4th respondent continued to live in the said house.

15. The appellant, after getting divorce from his wife, resided with the 4th respondent at Anna Nagar. Thereafter, he remarried his divorced wife and moved to a new house in No.6, 6th Main Road, MMDA Colony, Maduravoyal. A girl child was born to the appellant on 24.11.2022. The Maduravoyal property was purchased by the 4th respondent in the year 2006 and she is the absolute and sole owner of the property. After the death of her husband, she decided to settle the property equally among her three children. They sold the property at Karur for a sum of Rs.5 Crores and the said amount was equally divided into four shares of Rs.1.25 Crores, which were deposited into each of her three children's accounts. The 4th respondent retained one share of Rs.1.25 Crores for her own needs and maintenance.

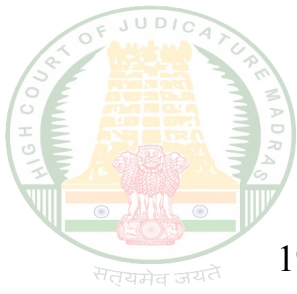


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16. However, the appellant demanded the entire sale price of Rs.5 Crores and the trouble started within the family. The 4th respondent was subjected to mental and physical harassment. The appellant has not even left the daughters of the senior citizen and their husbands. The 4th respondent has narrated the manner in which the appellant harassed her physically and mentally.

17. The 4th respondent has got right of residence, since the Anna Nagar house is her matrimonial home and lived along with her late husband for several years. The District Collector is duty bound to ensure that the residence of the senior citizen is protected under the Senior Citizens Act. The right to life of the senior citizen is to be protected by evicting the appellant from the Anna Nagar house.

18. More so, the senior citizen has allowed the appellant to reside in her house at Maduravoyal, so the appellant can very well shift his residence at Maduravoyal to live with his family. The District Collector and the Writ Court have considered these aspects and therefore, the writ appeal is to be rejected.



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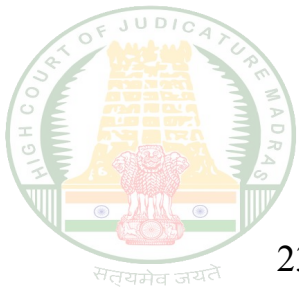
19. Heard the parties to the *lis* on hand.

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20. Section 4 of the Senior Citizens Act cannot be read in isolation, instead, the entire Act must be considered in the context of its objectives and the intention of the Parliament is to be taken into consideration for granting relief and to protect the life of the senior citizen. A holistic reading of the provisions is of paramount importance, since this is a welfare legislation.

21. No person can be allowed to pick up one provision for the purpose of dismissing a complaint or securing any particular relief under the Senior Citizens Act. The scheme of the Act is to protect the life, property, dignity and decent life of the senior citizens throughout his/her life, which is a basic right enunciated under the Constitution of India.

22. Therefore, merely because a senior citizen earns certain rental income, a complaint seeking the right to residence cannot be rejected. Maintenance under the Senior Citizens Act encompasses not only financial support, but also a decent life, dignity, medical attendance, love, care and basic amenities, which all are to be protected.

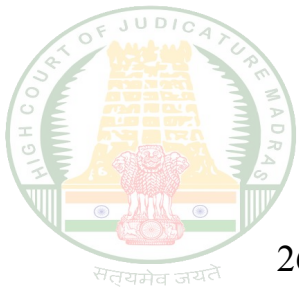


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23. The Senior Citizens Act cannot be compared with other Statutes for grant of maintenance, as it is a special enactment providing maintenance beyond monetary terms. All required protection, as contemplated under the Act and Rules, are to be granted to the senior citizens. It is the duty of the concerned District Collector to ensure that the senior citizens are protected and allowed to lead a life with dignity.

24. **Article 41** specifically recognizes the needs of senior citizens by stating that *“The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”*

25. Despite these constitutional assurances, ensuring a dignified life for senior citizens remains a challenge in contemporary society. Although Article 21 guarantees the right to life and personal liberty, the notion of a dignified life in old age depends on addressing the legitimate needs of senior citizens.



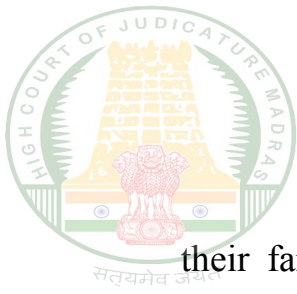
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26. The Hon'ble Supreme Court of India in the case of *Francis Coralie Mullin vs. Administrator, Union Territory of Delhi*¹, expanded the scope of Article 21, recognizing that:

“We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self.”

27. This interpretation of Article 21 reinforces the right of senior citizens to lead a dignified life in their old age. As individuals grow older, they often become financially, physically, and emotionally dependent on

1. A.I.R. 1981 746



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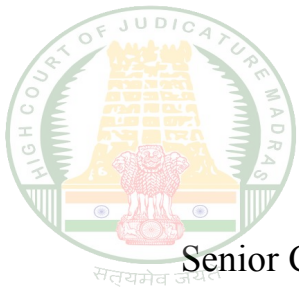
their families or society. However, neglect, abandonment, and inadequate care have emerged as serious concerns affecting the elderly.

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28. During the course of hearing, the learned Senior Counsel for the appellant would submit that the appellant has no objection to allow the senior citizen to occupy the ground floor. Accordingly, this Court granted time to the parties to settle the issues amicably.

29. The senior citizen was allowed to enter into the ground floor, but she expressed difficulty regarding the stairs to the 1st floor, which are situated inside the house. The appellant also expressed his difficulty in accessing the first floor through ground floor, as there are no external stairs, and it is a duplex house. The parties state that altering the stairs is not feasible at this point of time. Therefore, the Court's endeavour to resolve the issues failed.

30. Question arises, whether the senior citizen is entitled for her right to reside in her matrimonial house, where she lived with her husband for several years, and driven out by her own son/appellant after the death of her husband. The present factual scenario require that the spirit and scope of the



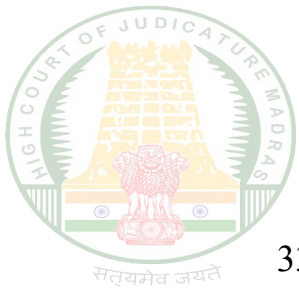
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Senior Citizens Act is to be pressed into service.

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31. Section 32 of the Senior Citizens Act empowers the State Government to make rules. Accordingly, the State, in exercise of its powers, notified the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009. Chapter V Rule 20 stipulates duties and powers of the District Collector. Rule 20(2)(i) states that it shall be the **duty of the District Collector to ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity.**

32. Therefore, it is the duty of the District Collector to ensure that the senior citizen is allowed to live in her own matrimonial house peacefully with security and dignity. In the present case, the senior citizen offered an alternative to the appellant, stating that they have another house in Chennai City itself, and she has no objection to hand over the house to the appellant to live separately. However, The appellant states that the house is not in good condition. If the house is indeed not in good condition, the appellant should make suitable alterations and maintain the house enable him to occupy and live there.

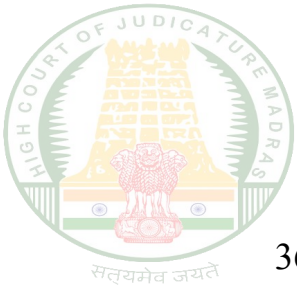


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33. Contrarily, the appellant is forcibly occupying the house at Anna Nagar. The senior citizen holds a 50% share along with 1/4th share of her husband, in the Anna Nagar house. Although the appellant would submit that a suit for partition has been instituted and is pending, the senior citizen's right to live in the matrimonial home should not be denied until the partition is effected through a Civil Court of Law.

34. When the senior citizen is holding major share in the Anna Nagar house, and she lived in the said house along with her deceased husband for several years, she has the right to reside in the said house with dignity. This right is to be protected by the District Collector under the provisions of the Senior Citizens Act and Rules.

35. The Writ Court considered the scope of the Senior Citizens Act that mere grant of maintenance in terms of money would be insufficient and the right of residence must be protected with dignity. Thus, the right of residence must be granted to the senior citizen, which has been rightly granted by both the District Collector and the Writ Court in the order impugned. Accordingly, the writ order impugned stands confirmed.



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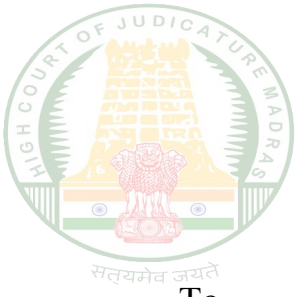
36. The District Collector is directed to ensure that the senior citizen is allowed to occupy the house at AL-155, A1 Block 2nd Street, 11th Main Road, Anna Nagar West, Chennai – 600 040 and her peaceful living in the house is protected with security and dignity.

37. With the above directions, the Writ Appeal stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

[S.M.S., J.] [K.R.S., J.]
01.04.2025

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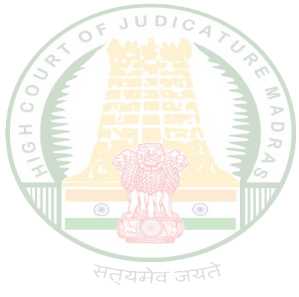
Index : Yes
Speaking order
Neutral Citation : Yes



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To
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