

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 10036 of 2015 (D)

PETITIONER:

**SANOOP, AGED 27 YEARS,
S/O.KAMALAMMA, KOCHARISSERIL THEKKATHIL,
SANDHYA BHAVANAM, KADAVOOR MURI,
KANNAMANGALAM VILLAGE,
MAVELIKKARA TALUK, ALAPPUZHA DISTRICT,**

**BY ADVS.SRI.M.V.THAMBAN
SRI.R.REJI
SMT.THARA THAMBAN
SRI.B.BIPIN
SRI.ARUN BOSE**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR/
MAINTENANCE APPELLATE TRIBUNAL,
COLLECTORATE P.O, ALAPPUZHA DISTRICT, PIN-690001.**
- 2. THE REVENUE DIVISIONAL OFFICER/MAINTENANCE TRIBUNAL,
CENGANNUR, ALAPPUZHA DISTRICT, PIN-689121.**
- 3. SIVANKUTTY, AGED 70 YEARS, S/O.NARAYANAN,
KOCHARISSERIL THEKKATHIL, SANDHYA BHAVANAM,
KADAVOOR MURI, KANNAMANGALAM VILLAGE - 690 106.**
- 4. RADHAMONY, AGED 65 YEARS,
W/O.SIVANKUTTY, KOCHARISSERIL THEKKATHIL,
SANDHYA BHAVANAM, KADAVOOR MURI,
KANNAMANGALAM VILLAGE - 690 106.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.S.JAMAL
R3 & R4 BY ADVS. SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 10036 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- TRUE COPY OF THE SALE DEED DATED 21/3/2006.
- P2:- TRUE COPY OF THE APPLICATION BEARING NO I 528/15 MW.
- P3:- TRUE COPY OF THE NOTICE BEARING NO I 528/15 MW 13/3/2015.
- P4:- TRUE COPY OF THE OBJECTION DATED 24/3/2015 FILED BY THE PETITIONER TO EXT P2 APPLICATION.
- P5:- TRUE COPY OF THE PLAINT BEARING OS NO 471/2014.
- P6:- TRUE COPY OF THE INTERLOCUTORY APPLICATION BEARING I A NO 2171/2014.
- P7:- TRUE COPY OF THE COUNTER AFFIDAVIT DATED 21/3/2015.
- P8:- TRUE COPY OF THE WRITTEN STATEMENT DATED 21/3/2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J

W.P(C) No. 10036 of 2015

Dated this the 04th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the respondents 3 and 4 have filed an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 as is evidenced by Ext.P2 which per se is not maintainable. The prayer in the application at Ext.P2 is for setting aside the document registered as 668/2006 before the SRO, Mavelikkara, dated 21.03.2006. The specific contention raised by the petitioner is that since the said application would not lie before the Maintenance Tribunal, Section 23 specifically provides for rendering void the conveyance executed by a Senior citizen only when the said conveyance has been made after the enactment of 2007 and when there is a specific clause in the conveyance deed indicating that the transferee would provide basic amenities and basic physical

needs to the transferor.

2. The challenge as raised in Ext.P2 is against Ext.P1. Ext.P1 is a deed of the year 2006. Further, the learned counsel for the petitioner submits that there is a suit pending, filed by the respondents 3 and 4 against the petitioner and his mother for setting aside the sale deed. It is also to be noticed that there is a term in Ext.P1 that the respondents 3 and 4 have life interest in the property. There is also said to be an injunction in favour of the respondents 3 and 4 from interfering with their possession.

3. In such circumstance, the 2nd respondent lacks jurisdiction insofar as the deed sought to be set aside is executed before 2007 [(2013(3) KLT 1011) (Vincent v. Augustine)] and for the further reason that it does not contain any condition as aforenoticed; as contemplated in Section 23 of the Maintenance Act. The life interest reserved to the executants is protected amply by the injunction order. The proceedings initiated by the Tribunal

at Ext.P3 is without jurisdiction and the same shall not be proceeded with. However, it is made clear that the rival contentions of the petitioner and the respondents 3 and 4 has not been dealt with by this Court and the parties would have to raise all such contentions in the civil suit.

Writ petition allowed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge