

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.3888 of 2018

S.Neelavathi

.. Petitioner

Vs

1.District Magistrate-cum-District Collector,
Appellate Tribunal under Maintenance
of Parents and Senior Citizens Act,
Office of the District Collector,
Singaravelar Building,
Parrys, Chennai – 1.

2.The Sub-Divisional Magistrate-cum-
Collector (In Charge),
Thondiarpet Division, Chennai – 61.

3.The Sub-Registrar,
Sembiam Sub-Registrar's office,
Chennai – 11.

4.K.Kalyani Kulasekaran,
Wife of (late) Mr.Kulasekaran,
No.25B, VOC Street, Thenpazhani Nagar,
Kolathur, Chennai – 99.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the

impugned order passed by the first respondent dated 13.02.2018 vide his proceedings in Me.Mu.Ma.En No.1574/A6/2017 in confirming the order of the second respondent dated 02.05.2017 made in Ref.No.A3/479/2016 and quash the same as illegal, arbitrary, without jurisdiction, contrary to law and evidence and probabilities of the case.

For petitioner : Mr.V.Raghavachari

for Mr.R.Veeramani

For R1 to R3 : Mr.T.M.Pappiah, Spl.GP

For R4 : Mr.K.G.Krishnaraj

ORDER

This writ petition has been filed by Mrs.Neelavathi, wife of Mr.P.Sivagnanam, challenging the impugned proceedings dated 13.02.2018 passed by the first respondent / District Magistrate-cum-District Collector, Appellate Tribunal under Maintenance of Parents and Senior Citizens Act, in confirming the order passed by the second respondent dated 02.05.2017 quashing the settlement deed dated 08.02.2008 entered by the fourth respondent/Mrs.Kalyani Kulasekaran, in favour of the writ petitioner.

2. Learned counsel for the petitioner submitted that the fourth respondent, mother of the petitioner, after receiving a sum of Rs.7,00,000/-, had executed a settlement deed dated 08.02.2008 in favour of the petitioner. Since the

petitioner's sister, namely, Mrs.Lakshmi, attempted to construct a house in the said property covered under the settlement deed dated 08.02.2008, the relationship got strained with her sister and finally, the petitioner filed a civil suit in O.S.No.2557 of 2016 on the file of the XV City Civil Court seeking partition of the suit property. The petitioner's mother joining hands with her sister preferred a false complaint under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short "the Act"). However, without noticing such motive of the fourth respondent and the petitioner's sister, the second respondent passed an unreasoned order dated 02.05.2017, that too without any jurisdiction. Aggrieved by the same, when appeal was preferred, even the first respondent has also miserably failed to consider all these facts, more particularly, the fact that the fourth respondent cannot make any complaint against the registration of settlement deed dated 08.02.2008 executed in favour of the petitioner, since said Act has come into force only with effect from 29.09.2008.

3. Learned counsel for the petitioner placing reliance on the G.O.Ms.No.139, Social Welfare and Nutritious Meal Programme (SW6) Department, dated 29.09.2008, submitted that in exercise of the powers conferred by Sub-section (3) of Section 1 of the Maintenance and Welfare of Parents and

Senior Citizens Act, 2007 (Central Act 56 of 2007), the Governor of Tamil Nadu appointed the 29th September, 2008, the date on which the said Act has come into force in the State of Tamil Nadu. The said Notification was also published in the Tamil Nadu Government Gazette. For better understanding, relevant portion of the said G.O. is hereby extracted below:

"In exercise of the powers conferred by sub-section (3) of Section 1 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007), the Governor of Tamil Nadu thereby appoints the 29th September, 2008, as the date on which the said Act shall come into force in the State of Tamil Nadu."

4. In view of the above said G.O., I do not find any merit in the impugned order passed by the second respondent dated 02.05.2017 quashing the settlement deed dated 08.02.2008 entered by the fourth respondent in favour of the petitioner on the ground that the petitioner has failed to take care of her mother/fourth respondent as per the said Act, for, as could be seen from the above said G.O., the Act itself has come into force only with effect from 29.09.2008. Thus, on this score, the impugned orders are liable to be set aside and accordingly, they are set aside. In any event, this Court hereby directs the parties

to agitate the issue before the competent Civil Court, if they are so advised.

5. In fine, for the reasons stated above, the writ petition is allowed.

No Costs. Consequently, connected miscellaneous petitions are closed.

09.07.2018

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Index:yes/no

To

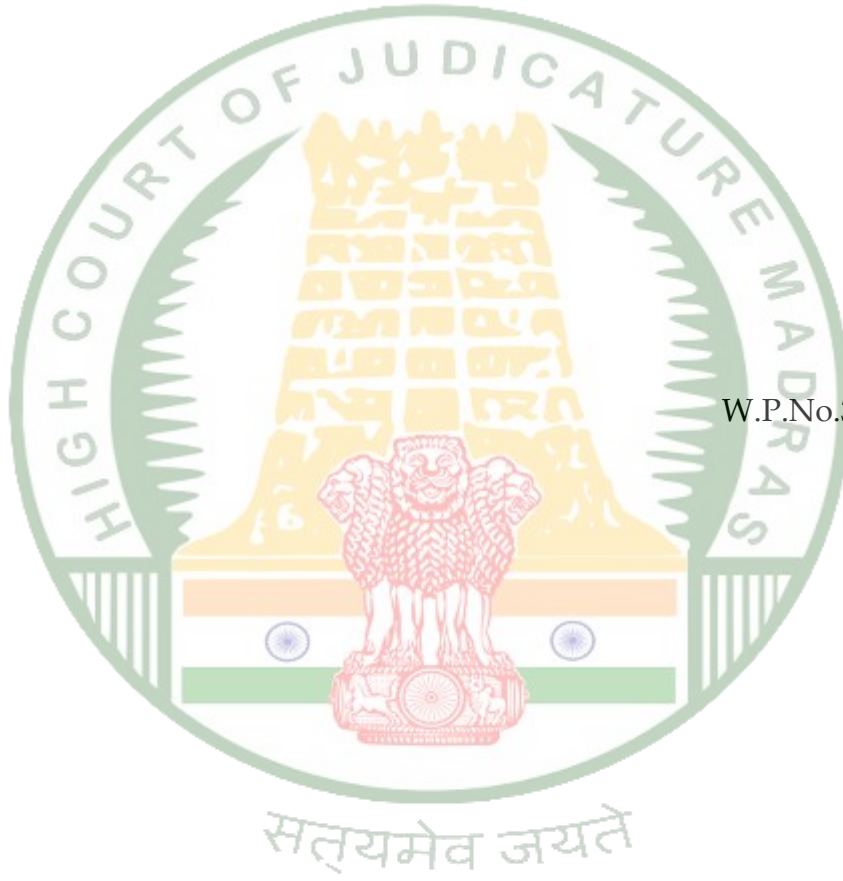
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T.RAJA, J.

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