



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **30.09.2020**

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

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W.P. (MD) No.3909 of 2020
and
W.M.P. (MD) No.3305 of 2020

K.Pandi

...Petitioner

Vs

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer cum Chairman,
Tribunal for Maintenance and Welfare of Parents
and Senior Citizens Act,
Sivagangai.

3.The Sub Registrar,
Madurai North Registration District,
Madurai.

4.P.Krishnan

...Respondents

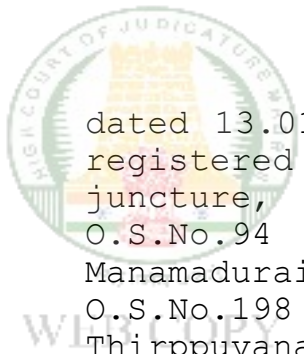
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the 2nd respondent in Pa.Mu. (Aa1)/7832/2019 dated 13.11.2019 and signed on 22.11.2019 and quash the same.

For Petitioner : Mr.J.Anandkumar
For R1 to R3 : Mr.A.Karthick
Government Advocate
For R4 : Mr.Niranjana S.Kumar

ORDER

Challenging the order passed by the 2nd respondent in Pa.Mu. (Aa1)/7832/2019 dated 13.11.2019, the petitioner has filed the present writ petition.

2.According to the petitioner, the 4th respondent herein, who is the father of the petitioner, had executed a gift settlement deed



dated 13.01.2003 in favour of the petitioner and the same was duly registered by the 3rd respondent vide Doc.No.69 of 2003. At this juncture, one of the sisters of the petitioner filed a suit in O.S.No.94 of 2019 on the file of the District Munsif Court, Manamadurai, which was later transferred and renumbered as O.S.No.198 of 2019 on the file of the District Munsif Court, Thiruppuvanam for the relief of partition and to declare the gift settlement deed dated 13.01.2003 is null and void and the same is pending now.

3.Pending suit, the 4th respondent / father made a compliant before the 2nd respondent to cancel the registered settlement gift deed dated 13.01.2003. Based on the aforesaid complaint, the 2nd respondent had passed the impugned order, dated 13.11.2019, by cancelling the settlement gift deed dated 13.01.2003 executed by the 4th respondent in favour of the petitioner under Section 23 (i) of the Tamilnadu Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Challenging the same, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that the 4th respondent had executed a settlement gift deed dated 13.01.2003 in favour of the petitioner, prior to the Tamilnadu Maintenance and Welfare of Parents and Senior Citizen Act, 2007 is coming into force. The said Act came into force only on 31.12.2019 and that therefore, at the time of passing the impugned order, the said Act cannot be invoked by the respondent and the same is only operate in prospective and not in retrospective. Therefore, the learned counsel urged before this Court that the impugned order passed by the respondent invoking Section 23 (i) of the Act, dated 13.11.2019, is liable to be quashed.

5.The learned counsel appearing for the 4th respondent had fairly admitted that one of the sisters of the petitioner, namely, Pusphavalli, has filed a suit in O.S.No.198 of 2019 on the file of the District Munsif Court, Thiruppuvanam for the relief of partition and to declare that the settlement gift deed dated 13.01.2003 is null and void and the same is pending now. The learned counsel would further submit that without jurisdiction, the impugned order dated 13.11.2019 has been passed by the 2nd respondent and that the same is liable to be quashed.

6.By taking note of the aforesaid submission made by the learned counsel appearing for the 4th respondent, this Court is of the view that the impugned order passed by the 2nd respondent dated 13.11.2019 is liable to be quashed on the ground of without jurisdiction and accordingly, the same is hereby quashed. It is make it clear that the learned District Munsif, Thiruppuvanam, can decide the suit in O.S.No.198 of 2019 independently, without being influence of any of the observations made in this order. Liberty is



also granted to the petitioner to seek his remedy before the civil Court.

7. With such liberty, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Sivagangai District,
Sivagangai.
 2. The Revenue Divisional Officer cum Chairman,
Tribunal for Maintenance and Welfare of Parents
and Senior Citizens Act,
Sivagangai.
 3. The Sub Registrar,
Madurai North Registration District,
Madurai.
 4. The District Munsif, Thirupuvanam
- +1 CC to M/s.GP (SR-18575[F] dated 30/09/2020)

W.P. (MD) No.3909 of 2020
30.09.2020

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