



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.10816, 10823 and 10829 of 2021

And

W.M.P.Nos.11443, 11454 and 11461 of 2021

1.K.Raju ...Petitioner in all the W.Ps.

Vs.

1.The Revenue Divisional Officer,
Villupuram.

2.The Sub Registrar (J-II)
Tindivanam.

3.The Sub Registrar,
Vanur,
Villupuram.

4.The District Collector,
Villupuram.

5.Krishnan ...Respondents in all the W.Ps.

Common Prayer:Petitions filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to order in Na.Ka.A3/1938/2018 dated 11.07.2019, 11.07.2019 and 21.02.2019 respectively, cancelling the Settlement Deeds dated 15.02.2007, 10.04.2014 and 26.08.2014 respectively, Doc.Nos.979/2007, 1269/2014 and 1705/2014 (SRO, Vanur), (SRO, Vanur) and (SRO, Tindivanam) respectively, quash the same and consequently direct the third respondent herein, third respondent herein and second respondent herein respectively, to restore the cancelled Settlement Deeds in Doc. Nos.979/2007, 1269/2014 and 1705/2014 (SRO, Vanur), (SRO, Vanur) and (SRO, Tindivanam) respectively, on the file of the third respondent, third respondent and second respondent respectively.



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For Petitioner : M/s.P.Veena Suresh

For Respondents : M/s.C.Sangamithirai for R1 and R4
Special Government Pleader
Mr.R.Kumaravel for R2 and R3
Additional Government Pleader
(Registration)
Mr.A.Sathish Kumar for R5

C O M M O N O R D E R

The petitioner has filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to order in Na.Ka.A3/1938/2018 dated 11.07.2019, 11.07.2019 and 21.02.2019 respectively, cancelling the Settlement Deeds dated 15.02.2007, 10.04.2014 and 26.08.2014 respectively, Doc.Nos.979/2007, 1269/2014 and 1705/2014 (SRO, Vanur), (SRO, Vanur) and (SRO, Tindivanam) respectively, to quash the same and to consequently direct the third respondent, third respondent and second respondent respectively, to restore the cancelled Settlement Deeds in Doc. Nos.979/2007, 1269/2014 and 1705/2014 (SRO, Vanur), (SRO, Vanur) and (SRO, Tindivanam) respectively, on the file of the third respondent, third respondent and second respondent respectively.

2.The case of the petitioner is that the petitioner is the son of the fifth respondent and due to some family misunderstandings, the fifth respondent filed a complaint before the first respondent under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (Act 56 of 2007) claiming to cancel the Settlement Deed executed in favour of the petitioner. Thereafter, the first respondent without proper enquiry passed the orders in Na.Ka.A3/1938/2018 dated 11.07.2019, 11.07.2019 and 21.02.2019 respectively, cancelling the Settlement Deeds dated 15.02.2007, 10.04.2014 and 26.08.2014 respectively, Doc.Nos.979/2007, 1269/2014 and 1705/2014 on the file of the third respondent, third respondent and second respondent respectively. Challenging the same, the petitioner preferred appeal before the District Collector, Villupuram under Section 16 (1) of the Act and the Appellate Authority, did not take the appeal on file on the ground that the appeal will lie only at the instance of the senior citizen or the parent.

3.The further case of the petitioner is that thereafter the petitioner filed W.P.No.29988 of 2019 before the Hon'ble



Division Bench of this Court seeking issuance of a Writ of Declaration, declaring that any aggrieved party to an order passed under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (Act 56 of 2007), can file appeal under Section 16 (1) of the said Act and to issue direction to the Appellate Authority to take the appeal on file. The Hon'ble Division Bench of this Court vide order dated 19.02.2021, dismissed the said writ petition.

4.The further case of the petitioner is that the dispute inbetween the petitioner and the fifth respondent was settled out of Court and the fifth respondent has received the lifetime Settlement amount and has agreed that no further maintenance claim will be laid in future. However, after the order of the Hon'ble Division Bench of this Court in W.P.No.29988 of 2019, the petitioner cannot approach the Appellate Authority. Hence, the petitioner has filed these writ petitions for the aforesaid relief.

5.The learned counsel appearing for the petitioner submitted that the dispute and indifferences between the parties are resolved and the fifth respondent received a sum of Rs.10 Lakhs from the petitioner towards maintenance amount for him and his wife and has no objection to set aside the cancellation of the Settlement Deeds. To that effect, the learned counsel also filed a Joint Compromise Memo filed by the petitioner and fifth respondent dated 23.12.2021, signed by the petitioner as well as the fifth respondent and by the learned counsel appearing for the petitioner as well as by the learned counsel appearing for the fifth respondent.

6.The learned counsel appearing for the petitioner prayed this Court to set aside the order of the first respondent made in Na.Ka.A3/1938/2018 dated 11.07.2019, 11.07.2019 and 21.02.2019 respectively, cancelling the Settlement Deeds dated 15.02.2007, 10.04.2014 and 26.08.2014 respectively, Doc.Nos.979/2007, 1269/2014 and 1705/2014 respectively and to direct the third respondent, third respondent and second respondent respectively, to restore the cancelled Settlement Deeds in Doc. Nos.979/2007, 1269/2014 and 1705/2014 respectively, on the file of the third respondent, third respondent and second respondent respectively.

7.Heard the arguments advanced on either side and perused the materials placed on record.



8.The facts in the present case are not in dispute. The complaint filed by the fifth respondent had resulted in an order of cancellation of settlement deeds being passed by the first respondent, after affording an opportunity of hearing to the parties. Against the said order, the petitioner had filed appeal before the District Collector, Villupuram, which was dismissed on the ground that no appeal is maintainable by any person, other than the senior citizen under Section 16 of the Act. It is also not in dispute that the writ petition filed by the petitioner before this Court claiming that appeal could be filed by a person other than a senior citizen under Section 16 of the Act was negatived by the Division Bench of this Court.

9.However, in the meanwhile, the petitioner and the fifth respondent have amicably settled the matter and a Joint Compromise Memo has also been entered into between the petitioner and the fifth respondent and they appeared before this Court confirmed the Compromise Memo in and by which, the fifth respondent, receiving a one time settlement, had granted no objection for setting aside the order in and by which the settlement deeds were cancelled.

10.The relevant portion of the Joint Compromise Memo filed by the petitioner and the fifth respondent dated 23.12.2021, signed by the petitioner as well as the fifth respondent and by the learned counsel appearing for the petitioner as well as by the learned counsel appearing for the fifth respondent reads as follows:

"The Petitioner herein is the son of the 5th Respondent in the above Writ Petition, the 5th Respondent father, filed a compliant before the 1st Respondent under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (Act 56 of 2007), to cancel the Settlement Deeds executed in favour of his son.

The 1st Respondent Vide order dated 21.02.2019 & 11.07.2019 cancelled the Registered Settlement Deeds dated, 26.08.2014 Doc.No.1705/2014, & 15.02.2007 Doc.No.979/2007, 10.03.2014 Doc.No.1269/2014, respectively.

It is submitted that since the dispute and the indifferences between the parties are resolved, Mr.Krishnan, 5th



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Respondent herein received a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) vide cheque nos. 252222 & 252223 dated 17.07.2020, drawn on Indian Bank, Thiruchitrambalam branch, from his son K.Raju, the Petitioner herein as a onetime settlement towards the maintenance amount for him and his wife. Further Mr.Krishnan the 5th Respondent herein has no objection to set aside the cancellation of the Settlement deeds vide orders dated 21.02.2019 pertaining to Doc. No. 1705/2014 (21.02.2019); and order dated 11.07.2019 pertaining to Doc. No.979/2007 (15.02.2007) and Doc. No.1269/2014 (10.03.2014) by District Revenue Officer namely the 1st Respondents herein. Mr. Krishnan do not have any objections for allowing above Writ Petitions No. 10816, 10823 & 10829 of 2021.

It is submitted that this Hon'ble Court may be pleased to record this Joint Memo of Compromise in the interest of Justice and render Justice."

11.In this backdrop, the present petition has been filed by the petitioner to set aside the impugned order passed by the first respondent cancelling the settlement deed. It is evident from the records that provision for appeal is not provided for any person, other than the senior citizen against any order passed by the adjudicating authority/ Tribunal. However, in the case on hand, after inviting an unfavourable order, which cannot be appealed, the petitioner and the fifth respondent have reconciled and settled the issue amicably amongst themselves and in that regard, the fifth respondent has also received one time settlement, as is evident from the Joint Compromise Memo entered into between the petitioner and the fifth respondent. Such being the case, the petitioner cannot be made to suffer with the order passed by the first respondent directing cancellation of settlement deed, when in fact the petitioner and the fifth respondent have amicably settled the disputes among themselves.

12.Though there is no provision under the Act for setting aside the order directing cancellation of settlement deeds, Law cannot render a person remediless and made to suffer and, therefore, for the reasons aforesaid, this Court, invoking the inherent and extraordinary jurisdiction available to it under



Article 226 of the Constitution of India, is inclined to accede to the relief sought for by the petitioner.

13. Accordingly, exercising the inherent jurisdiction vested in this Court, the orders of the first respondent made in Na.Ka.A3/1938/2018 dated 11.07.2019, 11.07.2019 and 21.02.2019 respectively, cancelling the Settlement Deeds dated 15.02.2007, 10.04.2014 and 26.08.2014 respectively in Doc.Nos.979/2007, 1269/2014 and 1705/2014 respectively are set aside. This Court directs the third respondent, third respondent and second respondent respectively, who are the Authorities, who had cancelled the respective Settlement Deeds, to restore the Settlement Deeds in Doc. Nos.979/2007, 1269/2014 and 1705/2014 respectively, to their file.

14. These writ petitions are allowed. The Joint Compromise Memo entered into between the petitioner and the fifth respondent dated 23.12.2021, filed before this Court, which has been extracted above, shall form part and parcel of the records. No costs. Consequently, the connected miscellaneous petitions are closed.

(* Joint Memo of Compromise Xerox copies enclosed)

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
Villupuram.
2. The Sub Registrar (J-II)
Tindivanam.
3. The Sub Registrar,
Vanur,
Villupuram.



4.The District Collector,
Villupuram.

+1 CC to Mr.P.Veena Suresh, Advocate sr 69704
+1 CC to The Government Pleader sr 69849

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GJ(CO)
SP(25/01/2022)