



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021
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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.9755 of 2020
and
W.M.P. No. 11877 of 2020

N. Kumar

...Petitioner

Versus

1. The District Collector
Office of the District Collector
Coimbatore District.
2. The Sub Divisional Magistrate
cum Revenue Divisional Officer
Tribunal for Parents and Senior Citizens
Welfare Maintenance Act 2007 Tribunal
Office of the RDO, Mettupalayam
Coimbatore District.
3. The Sub-Registrar
Office of the Sub-Registrar
Mettupalayam
Coimbatore District.

4.Yashoda
W/o.T.Narayanasamy

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.2742/2018/A1 dated 21.05.2020 and quash the same.

For Petitioner	: Mr. Babu Rangasamy
For R1 to R3	: Mr. G. Krishnaraja Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Certiorari, calling for the records relating to the order passed by the second respondent in his proceedings Na.Ka.No.2742/2018/A1 dated 21.05.2020 and quash the same.



2. According to the petitioner, in order to avoid his brother's interference, his parents/respondents 4 and 5 herein, have executed two settlement deeds registered as Doc.Nos.308 and 309 of 2015 in his favour during the year 2015. Now at the instigation of his brother, the 4th respondent preferred a complaint before the 2nd respondent, Tribunal, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, alleging that the petitioner obtained the settlement deeds in his favour fraudulently. After receiving summons, the petitioner has sent a detailed explanation to the 2nd respondent. But the 2nd respondent without examining the respondents 4 and 5, passed the impugned order dated 21.05.2020 directing the 3rd respondent, Sub-Registrar, to cancel the settlement deeds and also directing the Tahsildar to effect mutation in the revenue records in the name of his mother besides directing the petitioner and his brother to pay monthly maintenance to the respondents 4 and 5, which is unsustainable. Aggrieved over the same, the petitioner has come forward with this writ petition.

3. Upon notice, the 3rd respondent, the Sub-Registrar, filed a detailed counter affidavit stating that pursuant to the order of the second respondent dated 21.05.2020, the 3rd respondent cancelled the settlement deeds in Document Nos.308 and 309 of 2015 and made appropriate entries in the Register. In the Encumbrance of the said property, it is clearly mentioned that the settlement deeds have been cancelled and the properties mentioned in the documents stand in the name of the executants of the documents.

4. Today, when the matter is taken up for consideration, the learned counsel appearing for the petitioner fairly submitted that against the impugned order dated 21.05.2020, an appeal lies under Section 16 of the Civil Procedure Code, before the 1st respondent and hence, liberty may be granted to the petitioner for an appeal.

5. The learned Government Advocate appearing for the respondents 1 to 3 has no serious objection for granting such liberty to the petitioner.

6. In view of the above, this Court grants liberty to the petitioner to file an appeal, as against the order passed by the second respondent in his proceedings Na.Ka.No.2742/2018/A1 dated 21.05.2020, within a period of three weeks from the date of receipt of a copy of this order. If any such appeal is filed, the first respondent is directed to consider the appeal without raising any issue with regard to limitation and pass appropriate orders on merits, after affording an opportunity of hearing to the petitioner as well as any other interested parties.



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7. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kj/rsh

To

- 1.The District Collector
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cum Revenue Divisional Officer
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+1 CC to The Government Pleader, Sr.No. 36234.

WP No.9755 of 2020

PCH(CO)
LS(14/09/2021)