



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 13118 of 2021

S.R. Booshanam

.. Petitioner

Versus

1.The District Collector
Office of the District Collector
Chengalpattu, GST Road
Chengalpattu 603 001.

2.Selvaraj Arun Kumar

3.S.Amudha Ganesan

4.Akshra

5.Praveena

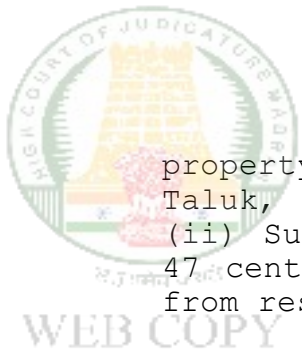
6.TRIBUTO HOLDINGS PVT. LTD.,
represented by its Director
Gopalakrishnan Shetty,
No.3, Club Road, Chetpet,
Chennai 600 031.

7.HURACAN HOLDINGS PVT LTD.,
represented by its Director
Gopalakrishna Shetty,
No.3, Club Road, Chetpet,
Chennai 600 031.

8.PORTFINO HOLDINGS PVT. LTD.,
represented by its Diector
Gopalakrishna Shetty,
No.3, Club Road, Chetpet,
Chennai 600 031.

.. Respondents

Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to dispose the representation dated 19.06.2021 within stipulated period in accordance with the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Tamil Nadu Maintenance and Welfare of parents and Senior Citizens Rules, 2009 in order to safe guard and return back the petitioner's



property situated at No.181, Kovilacheri Village, Tambaram Taluk, Kanchipuram District, (i) Survey No.92, 1 Acre 30 cents (ii) Survey No.93, 1 Acre 77 cents, (iii) Survey No.94, 1 Acre 47 cents, totally measuring 4 Acres 54 cents to the petitioner from respondents 2 to 8.

For Petitioner : Mr. J. Ravindran
for Mr. N. Doraikannan

For Respondents : Mr. G.Krishnaraja
Government Counsel for R1

Ms. Kavitha Deenadayalan for R2

Mr. S. Prem Auxilianraj R6 to R8

ORDER

The petitioner has come up with this Writ Petition for issuance of a Writ of Mandamus to direct the 1st respondent to dispose her representation dated 19.06.2021 within stipulated period in accordance with the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Tamil Nadu Maintenance and Welfare of parents and Senior Citizens Rules, 2009 and in order to safe guard and return back the petitioner's property.

2. According to the petitioner, who is a senior citizen, aged 84 years, she purchased the properties situate at No.181, Kovilacheri Village, Tambaram Taluk, Kanchipuram District comprised in (i) Survey No.92 measuring 1 Acre 30 cents (ii) Survey No.93 measuring 1 Acre 77 cents (iii) Survey No.94, measuring 1 Acre 47 cents, totally measuring 4 Acres 54 cents out of her sridhana jewels given by her parents at the time of her wedding, by way of sale deed dated 10.12. 1979. After purchase, the petitioner obtained patta in her name and has been enjoying the said properties without any interruption by paying the taxes and charges in her name. The petitioner has three daughters and two sons, who are 2nd and 3rd respondents herein. On the insistence of the 2nd and 3rd respondent, she executed a settlement deed in their favour for the purpose of constructing a petrol bunk in her property on 1.7.2007 vide Document No.5750 of 2007. While executing the Settlement Deed, the life interest of petitioner and her husband, right of residence, enjoyment of rental income from the said property were reserved to her husband and herself and it was informed at the time of executing Settlement Deed that her daughters have also share in the property and they have added the names of her three daughters in the deed. However, the second and third respondents have executed the settlement deed without any

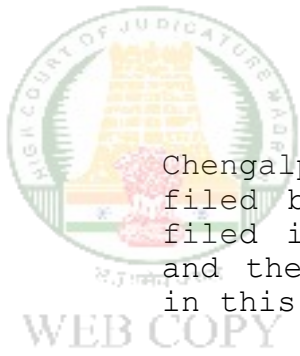


recitals to the effect that her daughters are also having share in the property and have executed the settlement deeds only to suit their convenience.

3. It is the grievance of the petitioner that the intention with which the settlement deed dated 01.7.2007 was written, was diluted by the settlees and the conditions enumerated in the recitals were not followed strictly in true letter and spirit. It is the further grievance of the petitioner that without the consent and knowledge of the petitioner, the second and third respondents got the signature of petitioner and made the petitioner to release her right of life interest over the above said properties. Further, without her knowledge and consent, the second respondent executed a settlement deed in favour of his wife N. Jayanthi and his daughter Akshara, who is the fourth respondent herein vide document No.2040 of 2020 dated 19.3.2020 and the fifth respondent who is her another son, executed a settlement deed in favour of his wife A.Praveena, the 5th respondent herein on 19.3.2020 vide document No.2041 of 2020. Subsequently, the second to fifth respondents have sold the said properties to the respondents six to eight by way of sale deed dated 24.3.2021. Thus, the respondents 2 and 3 have alienated the properties settled in their favour without adhering to the conditions of the settlement.

4. It is stated by the petitioner that it is the duty of the 2nd and 3rd respondents to take care of their parents, but after execution of settlement deed they failed to do so. The petitioner, aged 84 years was made to beg for food and medical expenses and made to run from pillar to post. Further the second and third respondents did not give any share in the properties to her daughters, therefore, they have filed suit in O.S.No.201 of 2021 before the District Court, Chengalpattu and obtained an order of interim injunction against the respondents 6 to 8. Highlighting the above, the petitioner made a representation to the first respondent on 06.05.2021, followed by another representation dated 19.6.2021 under the provisions of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 and Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 for taking suitable direction. Finding no response, the petitioner has filed the writ petition for the aforesaid relief.

5. Refuting the allegations made in the writ petition, a common counter was filed by the respondents 2 to 5 stating that the petitioner has suppressed various facts and has been tutored by her daughters under whom the petitioner is presently being emotionally blackmailed and held captive from March 2021. Having filed a suit in O.S.No.201 of 2021 before the District Court,



Chengalpattu, the present writ petition ought not to have been filed before this Court. The averments made in the affidavit filed in support of the writ petition are factually incorrect and therefore, based on those averments, the relief sought for in this writ petition need not be granted by this Court.

6. Heard Mr. J. Ravindran, learned counsel appearing on behalf of Mr.N.Doraikannan for petitioner, Mr. G. Krishnaraja, learned Govt. Advocate appearing for first respondent, Mrs.Kavitha Deenadayalan, learned counsel appearing for second respondent and Mr.S.Prem Auxilianraj, learned counsel appearing for the respondents 6 to 8 and perused the materials available on record.

7. The petitioner claimed to have been in possession of various properties which were allegedly settled in favour of her sons/respondents 2 and 3. It is her contention that the conditions imposed in the settlement deeds were breached by the respondents 2 and 3 for personal gain besides they deprived the petitioner of basic amenities. It is also stated that the respondents 3 and 4 have fabricated records to suit their convenience. The petitioner also submitted a representation dated 6.5.2021 followed by a reminder dated 19.6.2021 to the respondents. On receipt of the representation dated 06.05.2021, the District Revenue Officer, Corporation of Chennai, Chennai - 600 003 has forwarded it to the first respondent for taking appropriate action. Having regard to the above, the first respondent is directed to consider the representations dated 06.05.2021 and 19.06.2021 of the petitioner, conduct an enquiry, after providing sufficient opportunity of personal hearing to the petitioner as well as respondents 2 to 8, and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msr /rsh

To

The District Collector,
Office of the District Collector
Chengalpattu, GST Road
Chengalpattu 603 001



+lcc to Ms.Kavitha Deena Dayalan, Advocate, S.R.No.41662
+lcc to Mr.N.Dorai Kannan, Advocate, S.R.No.41292
+lcc to the Government Pleader, S.R.No.41743
+lcc to Mr.N.Dorai Kannan, Advocate, S.R.No.41292 (01/10/2021)

WP No. 13118 of 2021

PCH (CO)
CB (17/09/2021)