



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25824 of 2021

and

W.M.P.No.27300 of 2021

S. Kumaravelu

...Petitioner

Vs.

1. The Presiding Officer- Cum-Sub Divisional Magistrate (North),
Tribunal for Maintenance &
Welfare of Parents & Senior Citizens,
Puducherry.

2. Mrs. Radjesvary

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the entire records pertaining to the impugned notice issued by the Presiding Officer-cum-Sub Divisional Magistrate (North), Tribunal for Maintenance & Welfare of Parents & senior Citizens, Puducherry, the 1st respondent herein vide his proceedings bearing No. MWPS No.22/2021/2339 dated 16.09.2021, and quash the same as arbitrary, unreasonable, being violative of rules and principles of natural justice .

For Petitioner : Mr.A.R.Suresh

For Respondent R1 : Mr.C.T.Ramesh
Addl. Government Pleader (Pondy)

For Respondent R2 : No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned notice issued by the 1st



respondent vide his proceedings bearing No. MWPS
No.22/2021/2339 dated 16.09.2021 and to quash the same.

2.The case of the petitioner is that his mother/2nd respondent executed settlement deeds in favour of the petitioner and his brother one Mr.Karunakaran vide Documents Nos.21017 and 21018 and on 14.09.2021, the Sub-registrar had given the certificate of registration. While being so, the petitioner's sister one Mrs. Vimala, caused commotion and threatened the 2nd respondent to cancel the settlement deed executed in favour of the petitioner and his brother, due to which, the 2nd respondent made complaint before the 1st respondent on 15.09.2021 under the Maintenance & Welfare of Parents & Senior Citizens Act 2007 as if the petitioner is not taking care of his mother/2nd respondent and has fraudulently obtained the settlement deed in his favour. The 1st respondent without verifying the truth issued notice dated 16.09.2021 to the petitioner to appear before him on 24.09.2021 and the same was posted on 13.10.2021. Challenging the said notice, this Writ petition is filed.

3.The learned counsel appearing for the petitioner submits that due to the continuous threat created by the petitioner's sister, the petitioner filed suit in O.S.No.2463 of 2021 which is pending. He further submitted that the petitioner appeared on 13.10.2021 and filed a MEMO requesting the 1st respondent to refer the said application to the learned I Additional District Munsif Court, Puducherry, as there is no relief claimed by his mother/2nd respondent and the petitioner is the one who took care of his mother and is always willing to take care of his mother. Therefore, he submitted that, this Court may quash the show cause notice issued by the 1st respondent vide his proceedings MWPS No.22/2021/2339 dated 16.09.2021 as arbitrary and violation of rules.

4.The learned counsel for the 1st respondent submitted that the civil suit in O.S.No.2463 of 2021 is pending between the parties and therefore, this Writ petition is not maintainable. Accordingly, he prays for dismissal of the present Writ petition.

5. Though the petitioner has prayed for quashment of impugned notice, however, in view of the fact that the petitioner has already filed O.S.No.2463 of 2021, which is pending on the file of the concerned Court, the present petition challenging the show cause notice is not maintainable.



6. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs. However, liberty is granted to the petitioner to canvas all the points before the authority and in the suit pending before the Civil Court.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

skt

To

1. The Presiding Officer- Cum-
Sub Divisional Magistrate (North),
Tribunal for Maintenance &
Welfare of Parents & Senior Citizens,
Puducherry.

+1cc to Mr. A.R. Suresh, Advocate SR.No.63908

+1cc to Government Pleader (Puducherry) SR.No.64614

W.P.No.25824 of 2021
and
W.M.P.No.27300 of 2021

NR (CO)
GMY (24/01/2022)