



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27318 of 2021
and WMP.No.28827 & 28829 of 2021

1. Manikandan
2. Ashwin

..Petitioners

vs.

1. The District Collector,
Collectorate,
Vengikkal, Tiruvannamalai 606 604.

2. The Revenue Divisional Officer,
Anna Salai, Tiruvannamalai.

3. The Sub Registrar,
Tiruvannamalai Joint I
Tiruvannamalai.

4. Munusamy

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records relating to case No.A4/6101/2020 dated 26.11.2021 made by the second respondent herein and quash the same as illegal.

For Petitioner
For Respondents

: Mr. V.Prakash Babu
: Mr. C.Sangamithirai RR1 to 3
Spl. Government Pleader

ORDER

The petitioner has filed this petition seeking to quash the proceedings No.A4/6101/2020 dated 26.11.2021 made by the second respondent herein.

2. The case of the petitioner is that the petitioner is the grandson of the 4th respondent, who had two wives. The petitioner's father is the only son of the 4th respondent through the first wife. Through the second wife, the 4th respondent has two daughters and three sons. The 4th respondent is owner of the properties in S.no.114/3 acre 2.07 cents in Kalleri Village and



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S.No.222/4 acre 2.69 cents in Su.Valavetti Village. Due to love and affection, the 4th respondent executed a registered settlement deed in favour of the petitioner and his brother dated 18.07.2020 settling half of the above mentioned properties. Subsequently, S.No,114/3 and 222/4 are standing jointly in the petitioner and his brother's name.

3. At the instigation of the second wife of the 4th respondent, the 4th respondent, who is the grandfather of the petitioner, made a complaint on 24.12.2020 to the second respondent under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act. The second respondent, without providing any opportunity to the petitioner, allowed the petition dated 26.11.2021 filed by the 4th respondent and issued a direction to the 3rd respondent to cancel the settlement deed in favour of the petitioner and his brother. Therefore, the present Writ Petition has been filed seeking to quash the impugned order.

4. The learned counsel for the petitioner submitted that the 4th respondent had executed a settlement deed in favour of the petitioner. However, without affording any opportunity to the petitioner, simply impleading the petitioner's father as a party and without considering the entire fact, the second respondent has passed the impugned order, is clear violation of the principle of natural justice.

5. The learned Special Government Pleader submits that the second respondent has passed an order to cancel the settlement deed in favour of the petitioner. As against the order of the second respondent, the petitioner has to file an appeal before the first respondent. Without exhausting the remedy before the first respondent, the petitioner straight away filing this petition before this Court is not maintainable the same has to be rejected.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondents 1 to 3 and perused the materials available on record. No adverse order is passed against the 4th respondent and hence, the presence of the 4th respondent is dispensed with.

7. It is admitted fact that the 4th respondent has executed a settlement deed in favour of his grandson, who is the petitioner herein. Thereafter, the 4th respondent made a complaint before the second respondent under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act. After adjudication, the second respondent has passed an order dated 26.11.2021 to cancel the settlement deed in favour of the petitioner.



8. In these circumstances, the petitioner has to file an appeal before the first respondent to challenge the order of the second respondent. On the contrary, the petitioner has filed the present case is not maintainable.

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9. Considering the facts and circumstances of the case and without expressing any opinion on the merits of the case, this Court passes the following order:

a. The petitioner is directed to file an appeal before the first respondent within a period of two weeks from the date of receipt of a copy of this order; and

b. if such appeal is filed, the first respondent shall pass appropriate orders after affording opportunity to both the parties on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate
Vengikkal, Tiruvannamalai 606 604.

2. The Revenue Divisional Officer,
Anna Salai, Tiruvannamalai.

3. The Sub Registrar,
Tiruvannamalai Joint I
Tiruvannamalai.

+1 cc to Government Pleader Sr.NO. 69844

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ssi(CO)
A.SK(20.01.2022)