



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.17957 of 2021

and

W.M.P(MD).Nos.14818 and 14823 of 2021

WEB COPY

Poongothai

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.Kalaiarasi

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the proceedings in Na.Ka.Aa1/6079/2021 on the file of the first respondent dated 17.09.2021 and quash the same.

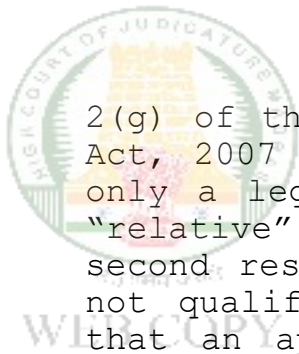
For Petitioner	: M/s.Sepana @ Sree
For R1	: Mr.K.S.Selva Ganesan
	Counsel for State

ORDER

The petitioner assails a notice dated 17.09.2021 from the first respondent by which the petitioner was called upon to appear at a hearing on 24.09.2021.

2.The petitioner states that the second respondent is her sister. The petitioner alleges that she contributed cash and jewellery for the purchase of a house by the second respondent. Subsequently, the second respondent executed a settlement deed dated 17.10.2014 in favour of the petitioner in respect of the above mentioned house. Pursuant thereto, the second respondent submitted a petition to the District Collector, Sivagangai, seeking cancellation of such settlement deed. Such petition was forwarded to the first respondent herein. The said first respondent issued summons for the appearance of the petitioner on 24.09.2021. By the present writ petition, the proceedings before the first respondent are challenged.

3.The principal contention of the petitioner is that the proceedings before the first respondent are not maintainable because the petitioner does not qualify as "relative" as defined in Section



2(g) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (the Senior Citizens Act). According to the petitioner, only a legal heir of a childless senior citizen would qualify as "relative" as per Section 2(g). The petitioner asserts that the second respondent has a child and, therefore, the petitioner does not qualify as a relative. Consequently, the petitioner asserts that an application under Section 4 or under Section 23 is not maintainable.

4.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice for the first respondent.

5.From the contentions of the petitioner, it is evident that the petitioner would be required to prove that the second respondent has a child. Therefore, the objection of the petitioner to the jurisdiction of the first respondent is dependent on a question of fact. Secondly, it needs to be examined as to whether an application under Section 23 is only maintainable against a relative as defined in Section 2(g) of the Senior Citizens Act.

6.Thus, it certainly cannot be said that the first respondent *ex facie* lacks jurisdiction to proceed in the matter. Without doubt, the petitioner is entitled to raise these objections before the first respondent in the pending proceedings. However, in judicial review, the petitioner has completely failed to make out a case to interfere with the impugned summons.

7.For reasons set out above, W.P.(MD)No.17957 of 2021 is disposed of without any order as to costs by leaving it open to the petitioner to participate in the proceedings before the first respondent. Consequently, W.M.P.(MD)Nos.14818 and 14823 of 2021 are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

WEB COPY

+1 CC to M/s.T.SEPANA @SREE, Advocate (SR-31391[F] dated 06/10/2021)

+1 CC to M/s.SPL.GP (SR-31523[F] dated 07/10/2021)

W.P (MD) .No.17957 of 2021

05.10.2021

PS (CO)/RS (20.10.2021) 3P 4C