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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **19.12.2022**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 324 of 2022

And

W.M.P.Nos. 358 & 9856 of 2022

R.Kamalam

... Petitioner/Petitioner

..Vs..

1. The District Collector and
District Magistrate
Ariyalur District.
2. The Presiding Officer
Tirbunal for Special Cases and
Revenue Divisional Officer
Udayarpalayam Division
Ariyalur District.

3. Tmt. Sarasu

... Respondents/Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records pertaining to the orders passed by the second respondent in Case No. 02/2020, Mu.Mu.File No. 493 of 2020 dated 24.09.2020 as confirmed by the first respondent in Na.Ka.E2/4671/2020 dated 22.12.2021 and quash the same.

For Petitioner

:: Mr. S.Kamadevan

For RR 1 & 2

:: Mr. M. Geetha Thamaraiselvan



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For 3rd Respondent :: No appearance

ORDER

The Writ Petition has been filed in the nature of Writ of Certiorari seeking interference with the orders of the second respondent in Case No. 02 of 2020 dated 24.09.2020 as confirmed by the first respondent dated 22.12.2021.

2. The third respondent/ mother of the petitioner had executed a settlement deed in favour of the petitioner with respect to the property measuring 16 cents in SF No. 72/19A and 72/15H at Ponparappi Kudikadu Village, Sendurai Taluk, Ariyalur District. It was actually a sale for consideration of Rs.1/- lakh. It was on 15.04.2002. However, they were advised to execute a settlement deed. The third respondent is said to have executed a settlement deed. Thereafter, the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007 came into force which was brought into effect by the State of Tamil Nadu on September 2008.

3. It appears that the third respondent had given a complaint before the second respondent stating that though a settlement had been made on the property, the petitioner was not looking after her.



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4. The second respondent had passed an order cancelling the settlement deed. This order was also confirmed by the first respondent.

5. In the meanwhile, the third respondent had also filed O.S.No. 105 of 2020 on the file of the Sub Court at Ariyalur, seeking cancellation of the said Settlement Deed. The petitioner for good measure had filed O.S.No. 176 of 2020 before the Sub Court Ariyalur, seeking declaration of title and recovery of possession. The third respondent appears to be in possession of the property.

6. It would only be advisable that the order of the first and second respondents are interfered with and set aside since it is clear that the settlement deed cannot be interfered with under the provisions of the Maintenance and Welfare of Parents and Seniors Citizens Act, 2007 as there is no specific clause that the petitioner should look after the third respondent. However this order shall not preclude the Civil Court from examining the settlement deed, the cancellation of the settlement deed and other subsequent transactions on the property in accordance with the evidence produced before the Civil Court.



C.V.KARTHIKEYAN, J.,
vsg

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7. The parties should be granted full opportunity to produce necessary oral and documentary evidence. However the order of the first and second respondents are hereby interfered with and set aside. If at all the first and second respondent seek to furnish information, they may also implead themselves as parties / defendants and participate in the said suit.

8. Recording as above, the Writ Petition stands allowed to the extent of setting aside the orders of the first and second respondents. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.12.2022

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order
To

1. The District Collector and
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