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W.P. No. 2371 of 2020

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.2371 of 2020
and WMP.No.19004 of 2022

R.Rajaramanan

.. Petitioner

Versus

1 The Sub-Collector,
Office of the Sub-Collector, Cuddalore.

2 Jawahar

3 The Sub-Registrar,
O/o The Sub-Registrar,
Registration Department,
Panruti Town,
Cuddalore District 607 106.

..Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the order in Na.Ka.No. A1 / 5081 / 2018 dated 19.3.2019 on the file of the 1st Respondent / Sub - Collector Cuddalore and quash the same and consequently, direct the 3rd Respondent to cancel the Settlement Deed doc.No. 630 / 2009 dated 6.3.2009 executed by the Petitioner infavour of the 2nd Respondent as per Section 23 of the Maintenance and welfare of Parents and Senior Citizens Act. 2007.

For Petitioner

:

Mr.D.Selvaraju

For V.Balamurugane



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For Respondents : Mr.U.Bharanidharan, AGP R1
Mr.P.Valliappan R2
Mr.G.Krishnan Raja, AGP R3

ORDER

The petitioner has filed this writ petition seeking to quash the order in Na.Ka.No. A1 / 5081 / 2018 dated 19.3.2019 on the file of the 1st Respondent / Sub - Collector Cuddalore and consequently, direct the 3rd Respondent to cancel the Settlement Deed doc.No. 630 / 2009, dated 6.3.2009 executed by the Petitioner in favour of the 2nd Respondent as per Section 23 of the Maintenance and welfare of Parents and Senior Citizens Act. 2007.

2. The case of the petitioner is that the petitioner is the father and the second respondent is his son. The petitioner purchased several properties, which are stated in the affidavit, were self-acquired properties. Out of love and affection, the petitioner executed a settlement deed in T.S.No.16 Survey No.61A/14 measuring an extent of 2942 sq. ft. in favour of his legal heirs, who are his wife and two sons and retained $\frac{1}{4}$ of the share for himself in the year 2012. Being not satisfied with the said arrangement made by the petitioner, the second respondent filed a suit in O.S.No.48 of 2013 before the Principal District Court, Cuddalore seeking to declare the settlement deed dated 18.10.2012 as null and void and for permanent injunction in respect of the above said property and the same is pending.



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3. In the meanwhile, the petitioner made a first application in the year 2014 before the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act") and subsequently, the same was dismissed as not pressed. Again, in the year 2018, the petitioner made second application before the first respondent under the Act against the second respondent to cancel the sale deed which was executed by the petitioner. The first respondent, vide his order dated 19.03.2019, rejected the petitioner's claim on the ground that the suit is pending before the Civil Court in respect of the subject matter. Challenging the said order, the petitioner has filed the present writ petition before this Court.

4. The learned counsel for the petitioner submitted that after execution of the above said property, the petitioner made application before the first respondent under Section 23(1) of the Act, due to ill treatment made by the second respondent and his wife. The first respondent have power to cancel the settlement deed under the Act. Without considering the entire facts of the case, rejected the petitioner's claim, which is not sustainable one. Further, the learned counsel prays that this Court may quash the impugned order and direct the 3rd respondent to cancel the settlement deed bearing document



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No.630/2009 dated 06.03.2009 executed by the petitioner in favour of the second respondent in accordance with the Act.

6. Per contra, the learned counsel for the second respondent submitted that admittedly, there are two settlement deed executed by the petitioner in favour of all the legal heir. The first settlement deed was cancelled by the petitioner by way of a cancellation deed. Again the petitioner divided the property and executed a registered settlement deed on 18.10.2012. Challenging the said settlement deed, the second respondent has filed a suit as stated supra. However, for pendency of the suit, the first respondent rejected the petitioners request. The learned counsel further submitted that there is no good relationship between the petitioner's wife and his daughter in law, who is the wife of the second respondent and therefore, the second respondent has been paying the monthly maintenance to his parents in the absence of any order passed by the first respondent. However, without prejudice to his rights, the second respondent is willing and ready to pay a sum of Rs.15,000/- each to the petitioner and his wife till their life time.

7. Heard the learned counsel on either side and perused the materials available on record.



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WEB COPY 8. The facts of the case are not in dispute. The relationship of the parties is also not in dispute. The petitioner is a Senior Citizen, aged about 80 years. He has executed a Settlement Deed in favour of his two sons and his wife and retained himself $\frac{1}{4}$ share of the specific property. Since the second respondent has not maintained him and his wife despite the execution of the Settlement Deed, he has filed an application before the first respondent under [Section 23](#) of the Maintenance and Welfare of Parents and Senior Citizens Act seeking for cancellation of the aforementioned Settlement Deed. The said application was rejected by the first respondent on the ground that the suit which was filed by the second respondent, is pending before the Civil Court in respect of the subject property.

9. Considering the fact that when the suit is pending in respect of the subject property, the first respondent and registration officials have no power to decide the issue under the Act. The petitioner has to ventilate his grievance in the suit before the Civil Court. Further, this Court is not inclined to discuss the merits of the case. If rendering any opinion on the merits of the case, it will be adversely affected the rights of the petitioner as well as the second respondent. Therefore, this Court is inclined to direct the petitioner as well as



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the second respondent to canvass all the points before the trial court, where the suit is pending. Furthermore, the second respondent submitted that he is ready to pay the monthly maintenance for a sum of Rs.15,000/- each to his parents.

10. In view of the above submission made by the second respondent, this Court, without going into the merits of the case, passes the following order:

"The Second respondent is directed to pay a sum of Rs.15,000/- each per month to the petitioner (father) and his wife (mother) totally a sum of Rs.30,000/- (Rupees Thirty thousand only) towards monthly maintenance on or before 5th day of every English Calender month, without any default, till their life time."

11. With the above direction, the writ petition is disposed of. No costs. However, liberty is granted to the petitioner to work out his remedy in the manner known to law.

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To

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2 The Sub-Registrar,
O/o The Sub-Registrar,
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Panruti Town,
Cuddalore District 607 106.



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M. DHANDAPANI, J.

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