



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

W.P.No.4950 of 2020

Kannammal

... Petitioner

Vs.

1.The District Collector,
Villupuram, Villupuram District.

2.The Sub Collector,
Thindivanam,
Villupuram District.

3.The Revenue Divisional Officer,
Chenji, Villupuram District.

4.Rani

5.Suba@Subalakshmi

6.Kumutha @ Kumudhavalli

7.Devaki

8.Vasanth Kumar

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records from the 2nd respondent relating to the his proceeding Na. Ka. A3/ 1228/ 2019 dated 31.12.2019 and quash the same and consequently cancelled the settlement deed executed by the petitioner in favour of the 5th and 6th respondents through the settlement deed Doc.No.527 of 2013 on the file of SRO Valatti under The Maintenance and Welfare of Parents and Senior Citizens Act.

For Petitioner : Mr.K.Andal

For Respondents : Mr.R.Murugaraja

Government Advocate for R1 to R3

Mr.R.RajaRajan for R5 to R6

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for records from the 2nd respondent relating to his proceedings dated 31.12.2019 and quash the same and consequently cancel the settlement deed executed by the petitioner in favour of the 5th and 6th respondents.



2. The case of the petitioner is that the petitioner had property in S.F.No.51/2A to the extent of 1.03 acres at Sozhangunam Village, Thindivanam Taluk, Villupuram District and settled part of his land to his son through a Settlement Deed and afterwards, due to the death of the petitioner's son, his daughter-in-law has taken care of the petitioner. It is alleged by the petitioner that at some later point of time, his daughter-in-law, threatened and forced the petitioner to execute a Settlement Deed in favour of her daughters / respondents 5 and 6. Due to threaten and force, the petitioner has executed Settlement Deed in favour of the respondents 5 and 6. After the death of his daughter-in-law, his grand children are refused to take care of the petitioner. Hence, the petitioner made application before the 2nd respondent to cancel the Settlement Deed. The 2nd respondent vide order dated 09.07.2019, ordered the respondents 5 and 6 to deposit Rs.1,500/- in the account of the petitioner as monthly instalment, instead of cancelling the Settlement Deed executed by the petitioner.

3. Aggrieved by the order of the 2nd respondent, the petitioner has preferred the Writ Petition in W.P.No.32449 of 2019, wherein an order has been passed that the petitioner has an effective alternative remedy before the 1st respondent and therefore, the said Writ Petition was dismissed as withdrawn. Subsequently the petitioner has filed an appeal before the 1st respondent. Thereafter on 31.12.2019, the 2nd respondent has passed an order in the appeal. Aggrieved by the said order, the present petition is filed.

4. The learned counsel appearing for the petitioner submitted that the 1st respondent being the appellate authority, vested with the power under Section 16 of the Maintenance and Welfare of the Parents and Senior Citizens Act. Instead of deciding the case on merits, the 1st respondent has remanded the matter back to the original authority / 2nd respondent, who already passed an order for monthly maintenance instead of cancelling the Settlement Deed and therefore, the impugned order is not sustainable and the remand order passed by the 1st respondent is bad in law and therefore, this Court may issue direction to the 1st respondent to pass orders on the appeal, after hearing the respondents 5 and 6, within a stipulated time.

5. The learned private respondents have no serious objections for the said order being passed and he further submitted that a liberty may be given to the respondents 5 and 6 to agitate the case before the 1st respondent.

6. Admittedly, the petitioner has executed Settlement Deed in favour of the grand daughters 5 and 6 and thereafter, the grand daughters refused to take care of the petitioner and



hence, the petitioner made application before the 2nd respondent for cancellation of the Settlement Deeds, who partly allowed the application by directing the grand daughters to pay the monthly instalments instead of cancelling the Settlement Deed. Aggrieved by the said order, the petitioner has preferred the appeal before the appellate authority / 1st respondent, who remanded the matter once again to the 2nd respondent and thereafter, the 2nd respondent has passed the order dated 31.12.2019, which is impugned in this Writ Petition.

7. After careful consideration of the relevant materials, this Court is of an opinion that the 1st respondent has vested with powers under the Act to decide the appeal on merits, however instead of dealing with the appeal, he remanded the matter to the 2nd respondent Original Authority for passing orders, which is not sustainable and hence, the impugned order passed by the 2nd respondent is liable to be set aside.

8. In view of the above, this Writ Petition is disposed of and the impugned order passed by the 2nd respondent in proceedings dated 31.12.2019, is set aside and the petitioner is directed to send copy of the appeal petition dated 21.11.2019 along with order copy to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent is directed to pass orders on the petitioner's appeal dated 21.11.2019, after affording opportunity to the petitioner as well as the respondents 5 and 6 and shall decide the same on merits within a period of further period of twelve weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sk

To

1.The District Collector,
Villupuram, Villupuram District.

2.The Sub Collector,
Thindivanam,
Villupuram District.

3.The Revenue Divisional Officer,
Chenji, Villupuram District.

+1 cc to Mr.N.Gomathi, Advocate Sr.NO.

+1 cc to Government Pleader Sr.NO. 19887

W.P.No.4950 of 2020

SKM(CO)

A.SK(11/04/2022)