IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-12-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4110 of 2022
And
CMP No.21360 of 2022

Chandrasekar .. Petitioner

vs.

Nallammal .. Respondent

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order passed by the District Collector, Tiruppur in Ref.No.O.Mu.No.822/2022/E1 dated 14.02.2022 confirming the order of the Revenue Divisional Officer, Udumalpet, Tiruppur in Ref.No.Mu.Mu.1483/2021/Aa1 dated 20.12.2021 and to set aside the same.

For Petitioner : Mr.B.Gopalakrishnan

O R D E R

The order passed by the Revenue Divisional Officer under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [hereinafter referred to as the 'Act', in short] in proceedings dated 20.12.2021, is under challenge in the present Civil Revision Petition.

2. Curiously, the respondent is the grandmother of the revision petitioner. The petitioner states that he purchased the property belongs to the respondent by executing the Sale Deed dated 15.09.2014. The Deed of Sale was executed by stating that the petitioner paid a sum of Rs.1,73,000/- towards sale consideration for the property belongs to the respondent, who is none other than the grandmother of the petitioner.

3. The Sale Deed indicates that the sale consideration was paid by the petitioner to the respondent-grandmother by way of cash, which was

disputed by the respondent. Thus the respondent filed a petition under the provisions of the Act, to set aside the Sale Deed as fraudulent execution.

4. The Revenue Divisional Officer conducted an enquiry by affording an opportunity to the parties. The age of the respondent was about 80 years and under those circumstances, to protect the interest and rights of the senior citizen, the Revenue Divisional Officer gone into the genuinity of the Sale Deed executed in favour of the revision petitioner herein.

5. Based on the enquiry and considering the deposition of the parties, the District Revenue Officer arrived a conclusion that the Sale Deed was executed without transferring the sale consideration in favour of the respondent-grandmother. Consequently, the Sale Deed executed in document No.3272 of 2014 dated 15.09.2014 was cancelled by invoking the powers conferred under the provisions of the Act.

6. Against the order passed by the Revenue Divisional Officer,

the revision petitioner preferred an appeal before the District Collector, Tiruppur, who in turn rejected the appeal. Thus the petitioner has chosen to file the present Civil Revision Petition.

7. The learned counsel for the revision petitioner contended that the petitioner paid the sale consideration by way of cash to the respondent, which was not considered by the Revenue Divisional Officer.

8. When this Court asked the petitioner regarding the mode of transfer of money to the respondent, there is no clear answer and even the revision petitioner has not produced the Bank Pass Book to establish that he had drawn the money from his own account or the cash transacted to the respondent was deposited in the Bank Account of the respondent. In the absence of anyone of such proof, the Revenue Divisional Officer formed an opinion that the sale consideration was not transferred in favour of the respondent-grandmother. Even before this Court, the revision petitioner has not produced any document to establish that the petitioner has paid the sale

consideration by way of cash or otherwise. Thus this Court is unable to form a different opinion than that of the findings of the Revenue Divisional Officer in the order impugned.

9. Exploitation of the senior citizen at any circumstances, is to be dealt with in accordance with the provisions of the Act. Senior citizens are being cheated by their own children and in the present case, by the grandson. The respondent was aged about 80 years and the petitioner is not maintaining the respondent. The Revenue Divisional Officer conducted a detailed enquiry by recording the deposition of the persons and based on such statements, the Sale Deed was set aside.

10. It is brought to the notice of this Court that the petitioner filed a civil suit in O.S.No.387 of 2021 on the file of the Sub Court, Udumalept for a declaration to declare that the Sale Deed is valid. Such a suit is not maintainable, since there is an express bar under Section 27 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. When

the suit expressly barred under the Special Act, it is not entertainable under Section 9 of the Code of Civil Procedure.

11. In the present case, Section 27 of the Act, 2007 stipulates that “No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act, applies and no injunction shall be granted by any Civil Court in respect of anything, which is done or intended to be done by or under this Act”.

12. When the jurisdiction of the Civil Courts are expressly barred, the suit cannot be numbered by the Civil Courts. In the present case, O.S.No.387 of 2021 was numbered erroneously in violation of Section 9 of the Code of Civil Procedure and thus the suit is not maintainable.

13. Once the provisions of the Act, was invoked by the Competent Authorities and the Sale Deed executed was dealt with by the Competent Authorities and was set aside by the Authorities concerned, the

suit for validating the said Sale Deed is not maintainable and thus the Sub Court, Udumalpet has erroneously numbered and entertained the civil suit filed by the petitioner in O.S.No.387 of 2021.

14. In the present case, the petitioner has not established any acceptable reason for interfering with the order impugned passed by the Revenue Divisional Officer, Udumalpet, Tiruppur District. It is a considered order and the decision was arrived based on the enquiry and the deposition of the parties concerned. The respondent is now aged about 81 years and this being the factum, the Revenue Divisional Officer, Udumalpet and the District Collector, Tiruppur District are bound to ensure that the property belongs to the respondent, is handed over to her and in the event of any abuse of the property or otherwise, all appropriate actions are to be initiated against the petitioner not only under the provisions of the Act, but also under the relevant provisions of the Indian Penal Code.

15. In this regard, the Revenue Divisional Officer, Udumalpet,

Tiruppur District is directed to conduct an enquiry and ascertain as to whether the property belongs to the respondent was handed over by the petitioner to her and all necessary protections are to be provided to the respondent, so as to ensure that the property rights of the respondent has not been infringed and she has been allowed to enjoy her property in a free and peaceful manner. The property right is the constitutional right under Article 300-A of the Constitution of India. Such right can be interfered with only by due process of law.

16. In the present case, the Sale Deed executed in favour of the petitioner was already set aside by the Revenue Divisional Officer and therefore, the Revenue Divisional Officer and the District Collector shall ensure that the property was handed over to the respondent as per the orders of the Revenue Divisional Officer and the respondent is allowed to enjoy the property in a free and peaceful manner.

17. In view of the facts and circumstances, this Court is of the

considered opinion that the petitioner is not entitled for any relief and the petitioner has no right to interfere with the suit property now belongs to the respondent.

18. Accordingly, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

12-12-2022

Speaking Order/Non-Speaking Order.
Internet : Yes/No.
Index: Yes/No.
Svn

Note: The Registry is directed to mark the copy of this order to:

1.The Sub Judge,
Sub Court at Udumalpet,
Tiruppur District.

2.The District Collector,
Udumalpet,
Tiruppur District.

3.The Revenue Divisional Officer,
Udumalpet,

Tiruppur District.

S.M.SUBRAMANIAM, J.

Svn

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