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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.NO.11963 OF 2022

AND

WMP.NOS.11386 & 11387 OF 2022

K.Raja Perumal

... Petitioner

-Vs-

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer,
Harur, Dharmapuri District,
3. The Tahsildar,
Harur Taluk,
Dharmapuri District.
4. The Sub-Registrar,
Sub-Registration Office,
Morappur, Harur Taluk,
Dharmapuri District.
5. Chinnakkal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to pass orders on the statutory appeal dated 16.03.2022 filed under Section 16 of the Maintenance and Welfare of the Parents and the Senior Citizens Act, 2007 within a stipulated time fixed by this Court.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mrs.Anitha
Special Government Pleader
for R1 to R4



ORDER

The prayer made in this writ petition is to issue a Mandamus directing the first respondent to pass orders on the statutory appeal dated 16.03.2022 filed under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 within a stipulated time.

2. According to the petitioner, the property comprised in Survey No.3/2B1 and sub-divided new survey Nos.3/12, 3/16, 3/18 and 5/C situate at Obilinayakampatti Village, Harur Taluk, measuring 30 acres originally belongs to his grand mother, who is the fifth respondent herein. To meet out her urgent family needs, the fifth respondent executed a Power of Attorney Deed in favour of her son Rajaperumal S/o Kolandai Gounder vide document No.6/2007 before the 4th respondent with power of alienation. As the said Raja Perumal has committed several irregularities and acted against the interest of the 5th respondent, she revoked the said power deed executed in his favour on 26.4.2009 and subsequently offered to sell the property to the petitioner, as she is in requirement of fund to run the family. Therefore the petitioner purchased the land from the fifth respondent for a valuable consideration by a separate sale deed and subsequent to his purchase, he made several developments in the said land by dividing the same into plots and sold such plots to some persons and also executed a settlement deed in favour of the Panchayat for common public amenity.

3. Whiles, the other sons of the 5th respondent has filed O.S.No.1 of 2010 before the District Munsif Court, Harur for partition. The 5th respondent has also filed a petition before the 2nd respondent under the Maintenance and Welfare of parents and Senior Citizens Act, 2007 seeking to cancel the said sale deed alleging that the petitioner had neglected to maintain the 5th respondent. Based on the said petition, the 2nd respondent passed an order cancelling the sale deed executed by the 5th respondent in favour of petitioner and a new settlement deed was executed by her in favour of one Manimaran, son of Maarappan vide his order dated 15.2.2022. Aggrieved by the same, the petitioner filed an appeal before the first respondent on 16.3.2022 under Section 16 of the Act and the same was received by the respondent on 17.3.2022, but despite filing of appeal, the 4th respondent has made an endorsement in the encumbrance certificate about the cancellation of the sale deed.

4. It is the grievance of the petitioner that as per Section 16(6) of the said Act, the Appellate Authority shall



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make an endeavour to pronounce the order in writing within one month of the receipt of the appeal, but even after lapse of one month, the appellate authority has kept the said appeal without passing any order. On the other hand, the fifth respondent through her other sons, is now attempting to create further encumbrance over the property by effecting mutation in the revenue records in their favour. Thus, left with no other alternative, the petitioner has filed the present writ petition before this court for the aforesaid relief.

5. The learned counsel for the petitioner submitted that the property was purchased by the petitioner for a valuable sale consideration, whileso, the order passed by the second respondent is legally not sustainable and the same is liable to be set aside. He would further submit that pending appeal, the fourth respondent ought not to have made entry in the encumbrance certificate and moreover, the private respondent and her sons are taking steps to create further encumbrance over the property by mutating, the revenue records in their favour. Therefore he prayed to issue appropriate direction to dispose of the appeal pending on the file of the 1st respondent, at the earliest.

6. Heard the learned counsel appearing for the petitioner and the learned Special Govt. Pleader appearing for the respondents 1 to 4 and perused the materials available on record.

7. Considering the facts and circumstances of the case and having regard to the submissions made on either side, this Court directs the 1st respondent to consider and dispose of the appeal filed by the petitioner dated 16.03.2022 and pass orders on the same on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording due opportunity to the petitioner, and the 5th respondent as well as all other interested parties concerned.

8. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

kmi/msr



To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer,
Harur, Dharmapuri District.
3. The Tahsildar,
Harur Taluk,
Dharmapuri District.
4. The Sub-Registrar,
Sub-Registration Office,
Morappur, Harur Taluk,
Dharmapuri District.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.31224
+1cc to the Government Pleader, S.R.No.31315

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CA (CO)
PM/20/05/2022