



WEB COPY



W.P.No.34391 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.34391 of 2022

and

W.M.P.No.33853 of 2022

Velmurugan

... Petitioner

Versus

1.The District Collector-cum-District Magistrate,
At the Office of the District Collector-cum-
District Magistrate, Puducherry.

2.Chinnammal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the entire records pertaining to the impugned appeal proceedings in Appeal No.8 of 2022 vide No.08/2022/Appeal/PMWPSC/B3/2022/7027 dated 25.11.2022 pending on the file of the 1st respondent herein and quash the same.

For Petitioner : Dr.S.Padma

For R1 : Mr.R.Sreedhar, (Puducherry)



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ORDER

The son of the 2nd respondent is before this Court, seeking interference with the proceedings which are now pending before the 1st respondent/the District Collector-Cum-District Magistrate at Puducherry.

2. The 2nd respondent had executed a Settlement Deed in favour of the petitioner herein. Thereafter, she had preferred a petition under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 at Puducherry, before the Tribunal No.1. That was numbered as MWPS.No.19/2022/2479.

3. An order was passed on 25.08.2022. The authority was quite conscious that the Settlement Deed cannot be cancelled and did not pass any order cancelling the Settlement Deed.

4. The Settlement Deed in favour of the petitioner still stands.



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5. The only order which had been passed was that the petitioner therein, namely, the 2nd respondent herein can live with her son, the present petitioner and also with her grandson.

6. As against that particular order, a further appeal had been filed in A.No.8 of 2022, which is now pending before the 1st respondent. The Appellate Authority has an obligation to examine the grounds of appeal and pass an order independent of all other extraneous circumstances.

7. The extraneous circumstances is this particular Writ Petition, seeking interference even with the proceedings of the 1st respondent/Appellate Authority.

8. The learned counsel for the petitioner had placed reliance on the order of a learned Single Judge in ***W.P.No.32650/2022, dated 06.12.2022 [S.Selvaraj Simpson vs. The District Collector and another]***. That was a Writ Petition questioning the order of the respondents therein, under the Maintenance of Welfare of the Parents and



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Senior Citizens Act, 2007. The learned Judge had examined Section 23 of the said Act.

9. It is trite in law to point out that if any Settlement Deed contains a clause that the settlee should look after the settlor in future, then, an obligation vests with the settlee to do so. If the Settlement Deed does not speak about any such obligation, then, it cannot be cancelled by any authority except by a competent Court. The judgment is not applicable to the facts of this case. Here, the Appeal is still pending before the 1st respondent and no order has been passed.

10. The second Judgment which has been relied on is by yet another Single Judge in *W.P.No.4575/2022, dated 30.06.2022 [C.Maria Pragasam vs. The District Collector, Ariyalur District]* where again, Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking cancellation of the Settlement Deed was the subject matter.



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11. Here the Original Authority had not passed any order cancelling the Settlement Deed. The only order which was passed was to permit the 2nd respondent to reside with the petitioner herein. If the petitioner as a son, does not want his mother to live with him during her old age, then, the Court can come to his help. He should answer his own conscience.

12. I am not impressed with any of the arguments advanced on behalf of the petitioner.

13. The Writ Petition stands dismissed. The 1st respondent is directed to proceed further in manner known to law in the appeal now pending. No order as to Costs. The connected miscellaneous petition stands closed.

23.12.2022
(1/2)

ssi

Index : Yes/No

Internet : Yes/No

To:

The District Collector-cum-District Magistrate,
At the Office of the District Collector-cum-
District Magistrate, Puducherry.



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C. V. KARTHIKEYAN, J.

SSI

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(1/2)