



W.P.(MD)Nos.1395, 389 & 1675 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.1395, 389 & 1675 of 2022

and

W.M.P.(MD)Nos.1232, 300 & 1478 of 2022

In W.P.(MD)No.1395 of 2022

D.Jeevitha

... Petitioner

Vs

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Palani, Dindigul District.

2.Karuppathal

3.P.Ayyappan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent made through his proceedings in Mu.Mu.No.3012/2021/A3, dated 16.12.2021 and quash the same.

For Petitioner : Mr.B.Rajesh Saravan
for M/s.D.Deepamathi

For R1 : Mr.M.Prakash



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W.P.(MD)Nos.1395, 389 & 1675 of 2022

For R2 : Mr.Gangaiamaran
Additional Government Pleader

In W.P.(MD)No.389 of 2022

P.Ayyappan ... Petitioner

Vs

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Palani, Dindigul District.

2.The Sub Registrar,
Su Registrar Office,
Dindigul District.

3.Karuppathal

4.Rajeshwari

5.P.Lakshmi ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent made through his proceedings in Mu.Mu.No.3012/2021/A3, dated 16.12.2021 and quash the same.

For Petitioner : Mr.B.Rajesh Saravan

For R1 & R2 : Mr.M.Prakash
Additional Government Pleader

For R3 to R5 : Mr.Gangaiamaran



W.P.(MD)Nos.1395, 389 & 1675 of 2022

In W.P.(MD)No.1675 of 2022

P.Thangaraj

... Petitioner

Vs

1.The Revenue Divisional Officer,
Palani Division, Dindigul District.

2.Karuppathal

3.P.Ayyappan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent made through his proceedings in Mu.Mu.No.3012/2021/A3, dated 16.12.2021 and quash the same.

For Petitioner : Mr.D.Venkatesh

For R1 : Mr.M.Prakash

Additional Government Pleader

For R2 : Mr.Gangaiamaran

For R3 : Mr.B.Rajesh Saravanan

COMMON ORDER

Heard the learned counsel on either side.

2. Karuppathal is the mother of Ayyappan. She executed settlement deed dated 06.11.2020 (Document No.2277/2020) in favour of her son settling the



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property covered thereunder absolutely. On the same day, she executed another settlement deed dated 06.11.2020 (Document No.2278/2020). In respect of the property covered thereunder, she reserved life estate herself and her sister Rajeswari. Her son Ayyappan was to take the property absolutely after their demise. Ayyappan sold a part of the property covered thereunder (Document No.2277/2020) in favour of Thangaraj vide sale deed dated 28.07.2021. Another portion covered thereunder was alienated by Ayyappan in favour of his wife Jeevitha. At this stage, Karuppathal filed a petition before the Maintenance Tribunal. Notice was ordered to Ayyappan and by the impugned order dated 16.12.2021, both the settlement deeds were set aside and the settlement made by Karupathal in favour of her son was declared as void. Challenging the same, these three writ petitions have been filed.

3. I went through the contents of the Document No.2277/2020 dated 06.11.2020. It does not contain any condition that transferee must provide the basic amenities and attend to the physical needs of the transferor. Admittedly, Karuppathal moved the maintenance tribunal only under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The said provision reads as follows:-



23. Transfer of property to be void in certain circumstances:-

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(1) Where any senior citizen who after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basis amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared as void by the tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right or if the transfer is gratuitous but not against the transferee for consideration and without notice of right.

(3) if any senior citizen is incapable of enforcing the rights under sub-section (1) and (2), action may be taken on his behalf by any of the organisation referred to in explanation to sub-section (1) of Section 5.

It is obvious that unless the settlement deed contains the aforesaid condition, the maintenance Tribunal will not have the jurisdiction to even entertain.

4. When the settlement deed in question does not contain the condition as aforesaid, the maintenance tribunal cannot declare the settlement deed to be void. As regards the other settlement deed, the settlor has very much retained the life estate both herself and her sister and only thereafter, her son was to take the property. In the said settlement deed also, no such condition has been incorporated.



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G.R.SWAMINATHAN, J.

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5. In this view of the matter, I have to necessarily hold that the maintenance tribunal acted patently without jurisdiction. The order impugned in these writ petitions is set aside. These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

17.08.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Revenue Divisional Officer,
Revenue Divisional Office,
Palani, Dindigul District.
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