



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.4860 of 2022

and

W.M.P. (MD) .Nos.4015 and 4017 of 2022

WEB COPY

1.Amutha

2.Revathi

... Petitioners

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Lalgudi,
Trichy District.

3.The Sub-Registrar,
Sub-Registrar Office,
Mannachanallur,
Trichy District.

4.Chinnaponnu

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the first respondent in Na.Ka.G1/38205/2021 dated 24.01.2022 and impugned order of the second respondent in Na.Ka.A1-1627-2020 dated 21.09.2020 and quash the same.

For Petitioners : Mr.J.Anandkumar

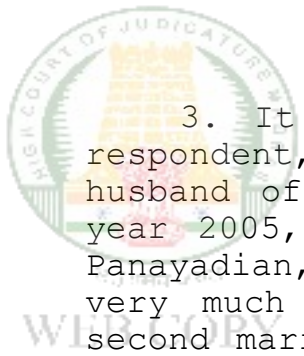
For R-1 to R-3 : Mr.D.Sasikumar,

Additional Government Pleader.

ORDER

This Writ Petition has been filed challenging the order dated 24.01.2022 passed by the first respondent dismissing the statutory appeal filed by the petitioners on the ground that the said appeal has been filed beyond the prescribed period.

2. Earlier, by order dated 21.09.2020, the second respondent cancelled the settlement deed standing in the name of the husband of the first petitioner and the second petitioner, on an application filed by the fourth respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 on the ground that the petitioners have not maintained the fourth respondent properly.



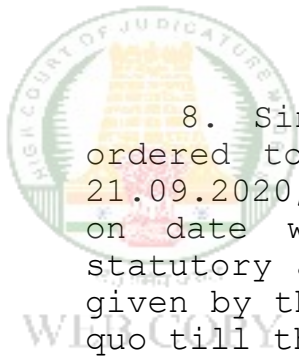
3. It is the contention of the petitioners that the fourth respondent, after execution of settlement deed in favour of the husband of the first petitioner and the second petitioner in the year 2005, has re-married despite the second petitioner's father, Panayadian, who was the first husband of the fourth respondent, was very much alive. According to the petitioners, ever since her second marriage, the fourth respondent has been enjoying her life, but, all of a sudden, in the year 2020, she submitted an application seeking for cancellation of the settlement deed in favour of the husband of the first petitioner and the second petitioner. The said settlement deed was executed in the year 2005. According to the petitioners, the provisions of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007 will also not apply, since the fourth respondent has re-married.

4. All the contentions raised by the petitioners will have to be considered on merits and in accordance with law, since the first respondent has dismissed the statutory appeal of the petitioners only on the ground that the said appeal has been filed beyond the prescribed period. This Court is of the considered view that instead of disposing this Writ Petition on merits and in accordance with law, the matter can be remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioners and the fourth respondent and other necessary parties, whom the first respondent deems fit to enquire.

5. Learned counsel for the petitioner has brought to the notice of this Court that under Section 16 (1) proviso, the first respondent is empowered to condone the delay in filing the statutory appeal. According to him, without considering the said proviso to Section 16(1), the impugned order has been passed by the first respondent by total non-application of mind.

6. Section 16 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007 also makes it clear that a fair opportunity of hearing must be granted to the parties to the dispute. In the case on hand, the appeal has been dismissed only on the ground that the said appeal has been filed beyond the prescribed period and as seen from the impugned order, no fair opportunity of hearing has also been granted to the petitioner.

7. For the foregoing reasons, the impugned order dated 24.01.2022 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and the fourth respondent as well as any other party, whom the first respondent deems fit to enquire. The first respondent shall pass final orders on the petitioners' statutory appeal within a period of six (6) months from the date of



8. Since the settlement deed is of the year 2005, which is ordered to be cancelled by the second respondent by order dated 21.09.2020, this Court is of the considered view that status quo as on date will have to be maintained till the disposal of the statutory appeal by the first respondent pursuant to the directions given by this Court. Accordingly, there shall be an order of status quo till the disposal of the statutory appeal.

9. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Lalgudi, Trichy District.

3.The Sub-Registrar,
Sub-Registrar Office,
Mannachanallur,
Trichy District.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-12809[F] dated 17/03/2022)

+1 CC to M/s.SPL GP (SR-12993[F] dated 18/03/2022)

**ORDER MADE IN
W.P. (MD) .No.4860 of 2022
17.03.2022**

PKP/28.03.2022/3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>