



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2022

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.9107 of 2022

C.Suyambulingam

... Petitioner

Vs.

- 1.The District Collector Cum Appellate Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, Kanyakumari District, Nagercoil.
- 2.The Revenue Divisional Officer/Maintenance Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, Nagercoil, Kanyakumari District.
- 3.Chandrasekar ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in MP.3/20351/2020 dated 03.12.2021 confirming the impugned order passed by the 2nd respondent in 5/1649/2018 dated 16.09.2019 and quash the same as illegal and consequently direct the 1st and 2nd respondents to claim of the petitioner as per Sections 5 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner : Mr.A.Mohamed Hashim

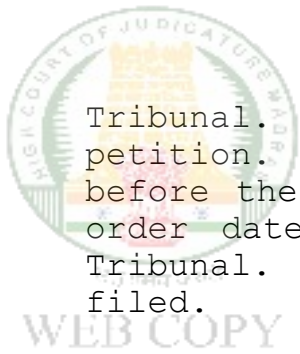
For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader for R1 & R2

Mr.A.Robinson for R3

ORDER

Heard the learned counsel on either side.

2.The petitioner is none other than the father of the third respondent. The petitioner's wife had settled the petition mentioned property in favour of the third respondent. Seeking cancellation of the same, the petitioner moved the Maintenance



Tribunal. The Maintenance Tribunal dismissed the petitioner's petition. Questioning the same, the petitioner moved an appeal before the first respondent. The first respondent by the impugned order dated 03.12.2021 confirmed the decision of the Maintenance Tribunal. Challenging the same, this writ petition came to be filed.

3.Though the authorities had gone into the merits of the matter, in my view, the petitioner may not have the *locus standi* to challenge the settlement made by his wife more so when she is alive. The stand of the third respondent is that 100 sovereigns of gold belonging to the third respondent's wife was given to the petitioner herein and in lieu thereof, the settlement came to be executed. These are factual aspects. When the Maintenance Tribunal as well as the Appellate Tribunal had gone into the facts and held against the petitioner, no interference is called for in exercise of writ jurisdiction. It is all the more so because the settlement deed executed by the petitioner's wife in favour of her son/third respondent did not contain any condition. Therefore, the authorities rightly bore in mind Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act. At the same, there is merit in the contention of the petitioner that the third respondent is obliged to maintain him and that this part of the request was not taken note of by the Tribunal.

4.The learned counsel for the third respondent would state that on account of the business conduct of the petitioner, the family lost its property, and is also entangled in criminal case. The third respondent lost his job as a driver. Even according to the petitioner, the third respondent is residing in his father-in-law's house. The third respondent is also clearing the loan incurred by the writ petitioner from Tamilnadu Mercantile Bank. The EMI comes to Rs.14,000/-. The petitioner and his wife are residing in the property that has been settled in favour of the third respondent. Taking note of the present condition of the third respondent, in the interest of justice will be met if the third respondent is directed to pay a sum of Rs.3,000/- per month in the bank account of the petitioner's wife. This amount will represent the maintenance payable by the third respondent to both his parents.

5.The writ petition is disposed of with the aforesaid directions. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)



To:

- 1.The District Collector Cum Appellate Tribunal under
the Maintenance and Welfare of Parents and Senior Citizens Act,
Kanyakumari District,
Nagercoil.
- 2.The Revenue Divisional Officer/Maintenance Tribunal under
the Maintenance and Welfare of Parents and Senior Citizens Act,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.A.ROBINSON, Advocate (SR-27061[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-27724[F] dated 23/06/2022)

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MGJ(04.07.2022) 3P 5C