



W.P(MD)No.22038 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22038 of 2022

and

W.M.P(MD)Nos.16193, 16194 & 20170 of 2022

Parameshwari

... Petitioner

Vs

1.The Revenue Divisional Officer cum
Maintenance Tribunal,
Palani Revenue Division,
Dindigul District.

2.Muthu

3.Subbammal

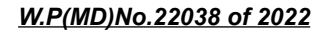
... Respondents

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 passed by the first respondent in his proceedings dated 08.08.2022 made in Mu.Mu.6158/2022/A2 and set aside the same as illegal.

For Petitioner : Mr.R.Gandhi

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R.1

Mr.J.Anandkumar for R.2 & R.3



Heard the learned counsel on either side.

3. While so, even before the execution of the settlement deed, the relationship between the parties had come under strain. The petitioner lodged criminal case in Crime No.305 of 2015 on the file of Eriyodu Police Station and the private respondents have even arrested and remanded to custody. The petitioner has also filed H.M.O.P.No.4 of 2015 on the file of Sub Court, Veda sandur and divorce was granted in her favour on 11.01.2016.



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4. The respondents 2 and 3 herein moved the first respondent for cancellation of the settlement deed. By the impugned order dated 08.08.2022 the first respondent directed the writ petitioner to pay a sum of Rs.2,000/- (Rupees Two Thousand only) as maintenance to the private respondents herein. The writ petitioner was also restrained from dealing with the property. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and allow this writ petition as prayed for.

6. The learned counsel appearing for the private respondents submitted that the impugned order does not warrant any interference. He pressed for dismissal of writ petition. The learned Special Government Pleader also called upon this Court to sustain the impugned order.

7. I carefully considered the rival contentions and the went through the materials on record. Even though the private respondents herein wanted the Maintenance Tribunal to set aside the settlement deed, the Maintenance



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Tribunal rightly did not grant the said request. The Hon'ble Apex Court vide order dated 06.12.2022 in Civil Appeal No.174 of 2021 (***Sudesh Chhikara Vs. Ramti Devi & another***) had held that unless the deed of conveyance contains the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, the document cannot be cancelled. The document in question does not contain any such condition. The Maintenance Tribunal therefore rightly declined to accept the prayer of the private respondents for cancelling the documents. The maintenance Tribunal also erred in giving a direction that the petitioner should not interfere with the rights of the private respondents herein from enjoying the property in question.

8. The first respondent also erred in directing the petitioner to pay a sum of Rs.2,000/- (Rupees Two Thousand only) as monthly maintenance. It is relevant to note that the petitioner is not the transferee. The petitioner was only shown as a guardian for the minor child. Hence, no direction could have been passed against the writ petitioner for payment of maintenance. This part of the impugned order is set aside. However, the first respondent rightly directed the petitioner that she should not deal with the property till the minor child attains majority. This part of the impugned order is sustained. The impugned order is interfered to the extent mentioned above. This writ petition is partly allowed. Even though the writ petition has been partly allowed, the mediation



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proceedings can very well continue. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

07.12.2022

Index : Yes / No

Internet : Yes/ No

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To

The Principal,
Madurai Institute of Social Sciences, (Autonomous)
Madurai – 625 002.



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G.R.SWAMINATHAN, J.

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