



WEB COPY



W.P.No.1397 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1397 of 2022 &
W.M.P.Nos.1538 & 1539 of 2022 &
W.M.P.No.8846 of 2023

Suguna

...Petitioner

Vs.

1.The District Collector,
Collector Office,
Tirupur District.

2.The Revenue Divisional Officer,
R.D.O. Office,
Udumalpet Taluk.

3.Rajammal @ Rajamani ..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India,
to issue a Writ of Certiorari calling for the records from the file of the
second respondent leading to pass impugned order in
Mu.Mu.2627/2021/Aa1 dated 22.10.2021.

For Petitioner : Mr.N.C.Ashok Kumar

For Respondents 1 & 2: Mr.D.Ravichander
Special Government Pleader

For Respondent 3 : Mr.R.Amardeep,
for M/s.Tamil Law Firm



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ORDER

The writ on hand has been instituted questioning the validity of the order dated 22.10.2021 passed by the second respondent / Revenue Divisional Officer setting aside the settlement deed executed in favour of the writ petitioner by the third respondent who is none other than her mother.

2. The petitioner states that the third respondent, the mother of the petitioner executed registered settlement deed dated 15.06.2016 registered as Document No.4497/2016 on the file of the Sub Registrar Office, Udumalpet in respect of 2.50 acres in S.No.14/3B, Periya Valavadi Village and another dated 07.12.2016 registered as document No.9328/2016 on the file of the Sub Registrar Office, Udumalpet, in respect of 72 cents in S.No.14/3B, Periya Valavadi Village. The petitioner states that the said settlement deeds were executed out of natural love and affection. The settlement deeds had come into force and necessary changes were made in the revenue records in favour of the petitioner. The petitioner mortgaged the property with Kuralkuttai Primary Agricultural Co-operative Bank.



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3. The petitioner states that the third respondent was living with her and they together filed a civil suit in O.S.No.74/2017 on the file of the Sub Court, Udumalpet against the brother of the petitioner viz., G.Suresh for partition of the other properties left behind by the father of the writ petitioner. The suit was decreed exparte. Subsequently, the exparte decree was set aside and the suit is pending as of now. The brother of the writ petitioner also filed a suit in O.S.No.227/2016 on the file of the Sub Court, Udumalpet against the petitioner and the third respondent to declare that the settlement deeds executed in favour of the petitioner are null and void. The said suit is also pending. While so, the third respondent at the instance of the brother of the writ petitioner filed an application under the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 to cancel the settlement deeds executed in favour of the writ petitioner by the third respondent.

4. The competent authority under the Senior Citizen Act, adjudicated the issues between the parties by affording opportunity and formed an opinion that the Senior Citizen is entitled for the relief and accordingly, cancelled the settlement deeds executed by the third respondent in favour of



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the writ petitioner. The petitioner preferred an appeal, which was not taken on file and thus, the present writ petition is filed.

5. Learned counsel for the petitioner mainly contended that there is no express condition in the settlement deed to maintain the third respondent. In the absence of any such condition, the settlement deed cannot be cancelled and the said proposition has been reiterated by the Apex Court of India.

6. The petitioner states that she was maintaining the third respondent all along and the application under the Senior Citizen Act was filed, due to the threat by the brother of the writ petitioner, with an idea to get back the property already settled in favour of the petitioner and therefore, the order impugned is to be set aside. It is further contended that the third respondent is having sufficient income to maintain herself and thus, the contention raised in the application by the third respondent is false and frivolous.

7. Learned Special Government Pleader appearing on behalf of the respondents 1 and 2 objected the contentions raised by the petitioner by



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stating that the competent authority after conducting an adjudication, formed an opinion that the senior citizen is entitled for the relief, in view of the fact that the petitioner had given a false promise to the third respondent and it was withdrawn and therefore, the settlement deed was cancelled in accordance with the provisions of the Senior Citizens Act. It is further stated that after scrutinizing the plea of the third respondent, the second respondent issued notice to the writ petitioner under the provisions of the Senior Citizen Act and an enquiry was conducted and the order under section 23(1) of the Senior Citizen Act was passed on merits and in accordance with law and thus, the writ petition is to be rejected.

8. Considering the arguments as advanced between the parties to the lis on hand, let us first consider the purpose and object of the Maintenance and Welfare of the Parents or Senior Citizens Act, 2007. The statement of objects and reasons for the enactment was considered by the Parliament as under:

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the Joint family system a large number of elderly are not being looked after by their family.



Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple inexpensive and speedy provisions to claim maintenance for parents.”

9. Let us consider the spirit of the Act, with reference to the purpose and object sought to be achieved.

10. Section 2(b) defines “maintenance” includes provision for food, clothing, residence and medical attendance and treatment. Section 2(f) defines “Property” means property of any kind, whether movable or immovable, ancestral or self acquired, tangible or intangible and includes rights or interests in such property. Section 2(k) defines “Welfare” means provision for food, health care, recreation centres and other amenities necessary for the senior citizens. Section 3 provides Act to have overriding effect.



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11. Therefore, it is not only providing food to the Senior Citizen, it must be ensured that they live in comfort, considering the status of the family. Mere providing food, shelter would be insufficient to comply with the object sought to be achieved under the Act. Such maintenance to be in commensuration with the family status and the status of the citizens and the circumstances under which senior citizens are leading their livelihood. At the outset, mitigating circumstances are also to be considered to determine whether the senior citizen is entitled for the relief under the Act or not.

12. Section 4 denotes Maintenance of parents and Senior Citizens. Sub section 3 contemplates that “The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.” Sub section 4 denotes “any person being a relative of a senior citizen and having sufficient means, shall maintain such senior citizen, provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen.” Sub section 4 includes class-2 legal heirs also under the Succession Act. Thus, the maintenance of the Senior Citizen



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does not stop with the class 1 legal heir and it is extended to the class 2 legal heirs also, if they are going to inherit the property of the senior citizen.

13. Sub section 3 is directly implicated with Article 21 of the Constitution of India i.e, Right to life. Article 21 of the Constitution guarantees protection of life and personal liberty. Protection of life includes provision for food, clothing, residence and medical attendance and treatment as defined under section 2(b) of the Act.

14. The spirit of Sub section 3 to section 4 is to be read in consonance with the guarantee provided under Article 21 of the Constitution of India. Sub section 3 states that it is the obligation of the children to maintain his or her parents extending to the needs of such parents either father or mother or both, as the case may be, so that such parent may lead a normal life. The word employed is “needs”. The needs of the Senior Citizen is to be ascertained with reference to the living standards of senior citizen and also based on the status of the family. Merely providing food or shelter to the senior citizen would be insufficient and it must be in commensuration with the family status and the living standards of the senior citizen. Further, sub



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section 3 provides guarantee for normal life. Therefore, such maintenance must be continuous, till the life time and thus, the object of the provisions are unambiguous that the senior citizen is to be maintained till their life time in consonance with the provisions of the Act.

15. Section 20 stipulates Medical support for senior citizens. Section 23 deals with transfer of property to be void in certain circumstances. Sub section 1 to section 23 reads that “ 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 basic 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 void by the Tribunal.”

16. The powers conferred under section 23 of the Act is to be read along with the duties and powers of the District Collector stipulated under Rule 20 framed under the Act. The rules are framed by virtue of the powers



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conferred under section 32 of the Act. Rule 20 (2)(i) mandates that it shall be the duty of the Collector to ensure that the lives and properties of the senior citizens of the District are protected and they are able to live with security and dignity. Thus, the District Collector is *Paren Patrie* (Legal Protector) of the senior citizen to protect the life and property of the senior citizen and they are able to live with security and dignity. The wider powers conferred on the District Collector is to be exercised in all circumstances, when the senior citizen is in need of any protection or assistance. The powers conferred on the District Collector under the Rules shall be exercised in all circumstances where right to life of the senior citizen is infringed or under threat coercion or otherwise.

17. In the context of the provisions of the Senior Citizen Act, the findings given by the second respondent in the impugned order is to be considered. The Revenue Divisional Officer, Udumalpet conducted an elaborate enquiry based on the statement of the senior citizen and the writ petitioner. The facts led for settling the property by the third respondent in favour of the petitioner and the subsequent developments were also considered by the competent authority.



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18. In the present case, the third respondent expressed her displeasure towards the writ petitioner and further her willingness to cancel the settlement deeds. In view of the statement made by the third respondent before the competent authority, the settlement deeds executed by the third respondent in favour of the petitioner was cancelled. There are civil suits pending between the petitioner and her brother and therefore, it is apparent that the family dispute exists. Under these circumstances, the right of senior citizen and her life is to be protected by the District Collector and in the present case, the competent authority has rightly done so and therefore, there is no need to interfere with the orders impugned as there is no infirmity or perversity.

19. Accordingly, the order impugned passed by the second respondent in proceedings No. Mu.Mu.2627/2021/Aa1 dated 22.10.2021 stands confirmed and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes
Speaking order

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Neutral Citation : Yes

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To

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Collector Office,
Tirupur District.
- 2.The Revenue Divisional Officer,
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Udumalpet Taluk.



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S.M.SUBRAMANIAM, J.

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