



W.P.No.9386 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.9386 of 2023

and

W.M.P.Nos.9480 & 9481 of 2023

K.R.Pruthiviraj

... Petitioner

Vs.

1.The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Coimbatore District.

3.The Sub-Divisional Magistrate/Revenue Divisional Officer,
Coimbatore South Division,
Coimbatore District.

4.N.Rajagopalan

5.S.S. Kalaimani

6.R.Brinda

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 3rd respondent in P.M.7777/2022/A1 dated 24.02.2023 and quash the same and accordingly, direct the 4th and 5th respondents to come and stay along with the petitioner at Chennai within a time frame to be fixed by this Court.

For Petitioner : Mr.P.Nethaji

For Respondents : Mr.U.Baranidharan
Additional Government Pleader
[R1 to R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records of the third respondent in P.M.7777/2022/A1 dated 24.02.2023 and quash the same and accordingly, direct the respondents 4 and 5 to come and stay along with the petitioner at Chennai within a time frame to be fixed by this Court.

2. The case of the petitioner is that petitioner's parents, respondents 4 and 5 herein, executed a settlement deed in favour of the petitioner settling a house property to an extent 2820 sq.ft. Subsequently, the petitioner instructed the parents to vacate the premises for



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construction of the house. As per the request made by the petitioner, they have vacated the premises, however, thereafter, no construction activity was carried out by the petitioner. Hence, the parents made a complaint before the original authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, for cancellation of settlement deed. Pursuant to which, the original authority passed the impugned order in P.M.7777/2022/A1 dated 24.02.2023 and directed the petitioner to ensure the residence of the Senior Citizens/parents in the house property till their life time. Aggrieved by the said order, the above writ petition is filed before this Court for appropriate directions.

3. Mr.P.Nethaji, learned counsel for the petitioner submits that the petitioner is the son of respondents 4 and 5 and the sixth respondent is the sister of the petitioner and daughter of respondents 4 and 5. At the instigation of the sixth respondent, the petitioner's parents made a complaint for cancellation of the settlement deed. The original authority did not pass any adverse order against the petitioner, however, issued a direction to the petitioner to ensure the residence of the parents in the property settled in favour of the petitioner, which is not sustainable one



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and the respondents have no power to pass such order and they have power only to issue direction to maintain the parents. However, the impugned order is passed without any jurisdiction.

4. Further, the learned counsel for the petitioner submits that, as per the judgment of the Hon'ble Division Bench of this Court, the petitioner have no right of appeal before the appellate authority and the remedy is available only before this Court and in the present writ petition, the original authority did not issue direction to cancel the settlement deed. However, they issued a direction to the petitioner to ensure the residence of the parents in the property, which was settled in favour of the petitioner. The entire dispute is civil in nature and the parents has to approach the concerned Civil Court. Instead of that, they made a complaint before the original authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which is not sustainable one. Accordingly, he prayed for appropriate orders.

5. It is further submitted by the learned counsel for the petitioner that, if the parents not able to maintain them, they are entitled to file an



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application before the original authority under the the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. However, the fourth respondent is receiving a sum of Rs.50,000/- and the parents are receiving nearly a sum of Rs.1,00,000/- as pension. In support of his contention, he relied upon the judgment passed in the case of ***M.Venugopal Vs. The District Magistrate-cum-District Collector, Kanyakumari District & two Ors.*** reported in ***2014 (5) CTC 162.***

6. Heard Mr.P.Nethaji, learned counsel for the petitioner and Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

7. The facts in the present case is not in dispute. Admittedly, the relationship of the petitioner and the respondents 4 and 5 is not in dispute and the respondents 4 and 5 are retired doctors. They are receiving pension and a residential property was owned by them, subsequently, which was settled in favour of the petitioner. However, it is alleged that the petitioner requested the respondents 4 and 5 to vacate the premises enabling him to construct the house. Since the construction was not



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carried out by the petitioner, the fourth respondent made a complaint before the third respondent. Pursuant to which, the third respondent issued a direction to the petitioner to ensure the residence of the fourth respondent in the disputed property. However, the third respondent did not issue a direction to the Registration Department or the Revenue officials for cancellation of settlement deed. The third respondent has issued a direction to ensure the shelter of the fourth respondent in the property, which was settled in favour of the petitioner. The impugned order passed by the third respondent is perfectly in order and hence, the same cannot be interfered with. Therefore, this Court cannot pass any affirmative order in favour of the petitioner.

8. Accordingly, the Writ Petition is dismissed. No costs.
Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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