



W.P.No.10554 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.10554 of 2023

Deivathal alias Deivanayagam

... Petitioner

Vs.

1.The District Collector,
(Senior Citizen and Maintenance Welfare Appellate Tribunal),
Tiruppur,
Tiruppur District.

2.The Revenue Divisional Officer,
(Senior Citizen and Maintenance Welfare Tribunal),
Udumalpet,
Tiruppur District.

3.Kamalakannan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of order dated 17.02.2023 vide proceedings in Mu.M.No.28620/2022/E1, 1/222520/2023 on the file of the first respondent and quash the same and consequently direct the first respondent to cancel the settlement deed dated 11.12.2015 bearing document No.3488 of 2015 on the file of SRO, Komangalam and to award sufficient maintenance to the petitioner.



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For Petitioner : Mr.Myilsamy

For Respondents : Mr.U.Baranidharan
Additional Government Pleader
[R1 & R2]
M/s.A.Sathishkumar [R3]

ORDER

The Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, to call for the records of order dated 17.02.2023 vide proceedings in Mu.M.No.28620/2022/E1, 1/222520/2023 on the file of the first respondent and consequently, to direct the first respondent to cancel the settlement deed dated 11.12.2015 bearing document No.3488 of 2015 on the file of SRO, Komangalam and to award sufficient maintenance to the petitioner.

2. The case of the petitioner is that, the relationship between the petitioner and the third respondent is mother and son. Out of love and affection, the petitioner executed a settlement deed in favour of the third respondent. Thereafter, the third respondent is not taking care of the petitioner and abandoned her. Hence, the petitioner filed a maintenance case in M.C.No.7 of 2022 on the file of the learned Judicial Magistrate



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No.1 at Udumalpet against the third respondent for maintenance and the same is still pending. That apart, the petitioner has filed a petition before the second respondent under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, for cancellation of settlement deed and for maintenance. Pursuant to which, the second respondent has dismissed the said petition on the ground that the petitioner's only intention is to cancel the settlement deed, vide proceedings in No.OM.0932/2022/Aa1, dated 25.07.2022. Challenging the same, the petitioner preferred an appeal before the first respondent and the first respondent had confirmed the order of the second respondent without ordering any maintenance to the petitioner vide proceedings in Mu.M.No.28620/2022/E1,1/222520/2023, dated 17.02.2023. Challenging the same, the petitioner has filed the above Writ Petition before this Court.

3. The learned counsel for the petitioner submits that, both the original authority as well as the appellate authority, without awarding any maintenance to the petitioner have mechanically rejected the petitioner's claim, which is not sustainable. Hence, he prays for appropriate orders.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 submits that, as against the concurrent findings, the present writ petition is filed. He also submits that, once the facts finding authorities have arrived at a conclusion that, the petitioner is not entitled for cancellation of settlement deed, the prayer sought for by the petitioner cannot be granted. Accordingly, he prays for dismissal of the writ petition.

5. The learned counsel appearing for the third respondent submits that, the third respondent is ready to pay a sum of Rs.10,000/- per month as maintenance to the petitioner. Hence, he prays for appropriate orders.

6. In response, the learned counsel appearing for the petitioner submits that, if the third respondent pays maintenance to the petitioner, the petitioner will withdraw the maintenance case pending on the file of learned Judicial Magistrate No.1 at Udumalpet as against the third respondent.



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7. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials on records.

8. In view of the fair submissions made by the learned counsel appearing for the third respondent, this Court, without interfering with the order impugned, directs the third respondent to pay the maintenance at Rs.10,000/- per month on or before the 10th day of every English Calendar month to the petitioner and the petitioner is directed to withdraw the maintenance case in M.C.No.7 of 2022 pending on the file of learned Judicial Magistrate No.1 at Udumalpet. If the third respondent fails to pay maintenance to the petitioner, the petitioner is at liberty to file execution petition before the second respondent for maintenance.

9. This writ petition stands disposed of accordingly. No Costs.

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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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To

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