



W.P.No.12622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM: JUSTICE N.SESHASAYEE

WP.No.12622 of 2022
& WMP.Nos.12066 and 12067 of 2022
& WMP.No.15858 of 2023

Mr.R.Vijayaraj

...Petitioner

-Vs-

1.The District Collector,
Tiruvannamalai,
Tiruvannamalai District.

2.The District Revenue Officer/Presiding Officer,
The Parents and Senior Citizen Welfare and
Maintenance Tribunal,
Tiruvannamalai,
Tiruvannamalai District.

3.Mr.C.Ranganathan

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for records in order dated 06.09.2021 in case No.A4/2574/2021 on the file of the 2nd respondent.

For Petitioner	: Mr.R.Rajarajan
For R1 & R2	: Mr.G.Ameedias, GA
For R3	: Mr.Om Sai Ram



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ORDER

The petitioner herein is the son of the third respondent. On 21.04.2017, the third respondent had executed a settlement deed in favour of his son, the petitioner herein. It appears the petitioner, though married has flirted with some other women and this appears to have brought in discordance between the petitioner and his father. It is in this circumstance, the third respondent approached the DRO/second respondent with his complaint under the Maintenance and Welfare of Parents and Senior Citizens Act, on the allegation that he has not been maintained properly and that the petitioner had even assaulted the third respondent.

2.The learned counsel for the petitioner submitted that for the DRO/second respondent to invoke Section 23 of the said Act, there ought to be three conditions;

- a) that the settlement deed should be executed after the coming into force of the Act. So far as the present case is concerned, the settlement deed will fall well within this clause.
- b) that the settlement deed must have a clause that it is executed in



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anticipation of the settlee maintaining the settlor. So far as this is concerned, in the present case there is a specific clause.

- c) that the settlee should neglect the settlor and should have refused to care or maintain the settlor. Here, the appreciation of material by the DRO/second respondent is inadequate. The RDO appears to have been influenced by the fact of the petitioner taking another women in his life but, has not objectively examined whether there was a refusal on the part of the petitioner to take care of his father.

3.The learned counsel for the third respondent would submit that the third respondent had essentially complained before the DRO/second respondent that he was not cared by the petitioner, that he was even assaulted by the petitioner.

4.Mr.G.Ameedias, learned Government Advocate appeared on behalf of the respondents 1 and 2.

5.This Court perused the impugned proceedings of the DRO and finds



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that the DRO has made his best endeavour in arriving at his conclusions but, vis-a-vis the critical conditions required for invoking Section 23 of the said Act is concerned, his line of reasoning is not convincing enough. Therefore, it is only appropriate, the DRO/second respondent reconsider the evidence made available by the Authorities and decide the issue de novo.

6. Accordingly, the impugned order dated 06.09.2021 is set aside and the matter is remanded back to the DRO/second respondent for him to re-appreciate the evidence, for which purpose, he is required to give a right of hearing to both the sides. It is however made clear, there shall be an order of injunction restraining the petitioner from alienating or encumbering the property covered under the settlement deed dated 21.04.2017 executed by the third respondent in his favour till the order of the DRO/second respondent becomes final.

7. The Writ Petition is accordingly allowed. No costs. Consequently, the



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connected miscellaneous petitions are closed.

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Index : Yes/No

Internet : Yes/No

Tsg

To

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Tiruvannamalai District.

2.The District Revenue Officer/Presiding Officer,
The Parents and Senior Citizen Welfare and
Maintenance Tribunal,
Tiruvannamalai,
Tiruvannamalai District.

N.SESHASAYEE, J.,



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Order made in
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22.09.2023