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W.P.Nos.15388/2020 & 11820/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.08.2023

PRONOUNCED ON : 01.09.2023

CORAM : **JUSTICE N.SESHASAYEE**

W.P.Nos.15388 of 2020 and 11820 of 2023 and
W.M.P. Nos.19247, 19248 of 2020 and
25752 of 2022 and 11721 of 2023

W.P. No.15388 of 2020

John Britto

... Petitioner

Vs.

1.The District Collector cum
District Executive Magistrate
Krishnagiri District, Krishnagiri

2.The Revenue Divisional Officer cum
Divisional Executive Magistrate
Hosur, Krishnagiri District

3.Chinnappan

4.The Sub Registrar
Denkanikottai
Krishnagiri District

5.The Village Administrative Officer
Natrampalayam Village
Anjetti Taluk
Krishnagiri District



W.P.Nos.15388/2020 & 11820/2023

6.The Tahsildar
Anjetti Taluk
Krishnagiri District

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the impugned order of the 2nd respondent vide Na.Ka. No.2291/2020/A1 dated 06.10.2020 and quash the same and consequently directing the 4th respondent to cancel the Settlement Deed executed in favour of Jabamalaimary vide Settlement Deed Doc. No.5877/2020 dated 15.10.2020 on the file of the 4th respondent.

For Petitioner : Mr.R.Balagurusamy

For Respondents : Mr.S.J.Mohamed Sathik,
Govt. Advocate for R1, 2 and 4 to 6
Mr.K.Nagarajan for R3

W.P. No.11820 of 2023

Chinnappan

... Petitioner

Vs.

1.The District Collector cum
District Executive Magistrate
Krishnagiri District, Krishnagiri

2.The Revenue Divisional Officer cum
Divisional Executive Magistrate
Hosur, Krishnagiri District



W.P.Nos.15388/2020 & 11820/2023

3.The Tahsildar
Anchetty Taluk
Krishnagiri District

4.The Village Administrative Officer
Natrampalayam Village
Anchetty Taluk
Krishnagiri District

5.The Sub Registrar
Denkanikottai
Krishnagiri District

6.John Britto

7.Madalaimuthu ... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records relating to the proceeding Na.Ka. No.5021/2022/A1 dated 29.12.2022 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.K.Nagarajan

For Respondents : Mr.S.J.Mohamed Sathik,
Govt. Advocate for R1 to 5
Mr.R.Balagurusamy for R6 & R7

COMMON ORDER

These petitions have been filed pursuant to the orders passed under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act,



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2007 (hereinafter in short "the Act").

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2.A certain Chinnappan has a son named John Britto. He settled a block of immovable property measuring 2.52 acres vide a settlement deed dated 11.04.2018, in favour of his son, John Britto. On 17.08.2018, the said John Britto sold 27 cents out of the property he obtained under the said settlement deed in favour of the third party. Subsequently, Chinnappan moved the Revenue Divisional Officer with his complaint/representation dated 03.09.2020. The Revenue Divisional Officer held an enquiry, and passed an order on 06.10.2020, cancelling the settlement deed under Section 23 of the Act. This is now under challenge in W.P.No.15388 of 2020.

3.In the meantime, the third party, purchaser of 27 cents from John Britto had laid W.P.No.19300 of 2020, challenging so much of the order of the Revenue Divisional Officer, which affected their title to the said plot of land. This Court allowed the said Writ Petition, and remanded the matter back to the Revenue Divisional Officer for a *de novo* consideration of the case of the subsequent purchaser. After hearing both sides, the Revenue Divisional Officer passed an order dated 29.12.2022, upholding the title of the third party purchaser over 27



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cents. This is now challenged by Chinnappan in W.P.No.11820 of 2023.
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4.Insofar as W.P.No.15388 of 2020 is concerned, the learned counsel for the petitioner submitted that the settlement deed does not has any strings attached to it, and it confers absolute title on John Britto. In ***Sudesh Chhikara vs. Ramti Devi***, [(2022) SCC OnLine SC 1684], the Hon'ble Supreme Court has categorically held that unless a property is settled by a senior citizen on the condition that settlee should maintain and care the settlor, the authority concerned, cannot invoke Section 23 of the Act to cancel the document. Therefore, the grievance of the petitioner in W.P.No.11820 of 2023 itself is not maintainable.

5.The learned counsel for the petitioner in W.P.No.11820 of 2023 submitted that John Britto had not maintained his father, but instead, he sold the property in favour of the third party.

6.In reply, the learned counsel for the petitioner in W.P.No.15388 of 2020 submitted that this Court has directed the petitioner to pay a sum of Rs.5,000/- to the father of the said John Britto, but he refuses to receive the same. The



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petitioner in W.P.No.15388 of 2020 is directed to purchase a draft in the name of his father, Chinnapan for the entire arrears of maintenance amount to be paid in terms of the order of this Court along with a statement of accounts.

7.As directed, the petitioner in W.P. No.15388 of 2020 has purchased the demand draft, but the counsel for the third respondent/petitioner in W.P. No.11820 of 2023 submitted that he has instruction to inform the court that since his son has sold the property, he is not willing to receive the draft. Hence, this court is constrained to return the demand draft to the learned counsel for the petitioner in W.P. No.15388 of 2020.

8.This court, carefully went through the Settlement Deed dated 11.04.2018 executed by the father in favour of John Britto, the petitioner in W.P. No.15388 of 2020.

9.When the settlement deed was perused, it is seen that the settlor has not subjected his settlement of the property to any condition as contemplated under Section 23 of the Act. Therefore, this court is constrained to interfere with the order of the Revenue Divisional Officer dated 06.10.2020, as modified by the



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order dated 29.12.2022 and set the same aside. Since the settlement deed was executed by Chinnappan in favour of his son John Britto, without any strings attached to it, the same is not liable to be cancelled. Therefore, Chinnappan cannot question the alienation made by his son John Britto in favour of Madalaimuthu (7th respondent in W.P.No.11820 of 2023). This would necessarily mean that W.P.No.15388 of 2020 filed by John Britto must succeed, but other W.P.No.11820 of 2023 filed by Chinnappan should be dismissed.

10.In conclusion, this court allows the writ petition in W.P. No.15388 of 2020 and dismisses W.P. No.11820 of 2023, with liberty to the petitioner therein to approach the District Collector under Section 16 of the Act. No costs. Consequently, the connected writ miscellaneous petitions are closed.

01.09.2023

Index : Yes/No
Speaking/Non-speaking order
Asr



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To

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- 5.The Sub Registrar
Denkanikottai
Krishnagiri District
- 6.The Government Pleader
High Court, Madras



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N.SESHASAYEE, J.

Anu/Asr

Pre-delivery order in
W.P.No.15388 of 2020 and W.P.No.11820 of 2023
and W.M.P.Nos.19247, 19248 of 2020, W.M.P.No.25752 of 2022 and
W.M.P.No.11721 of 2023

Dated :01.09.2023