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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **03.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 21657 of 2022

Mrs. Yasodha

... Petitioner

..Vs..

1. The Revenue Divisional Office
Coimbatore North Division
Coimbatore – 641 018.

2. Mrs. Nandhini Priya

3. Mr.R.Karthik

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari to call for the record of the first respondent under Letter No. 2726/2021/A1 dated 27.05.2022 and quash the same.

For Petitioner

:: Mr.S.Mukunth

For 1st Respondent

:: Mr. V.Baranitharan
Additional Government Pleader

For RR 2 & 3

:: Mr. N.Manokaran

**ORDER**

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The Writ Petition has been filed in the nature of a Writ of Certiorari seeking interference with the order of the first respondent / Revenue Divisional Officer, Coimbatore North Division, Coimbatore in Letter No. 2726/2021/A1 dated 27.05.2022.

2. The writ petitioner Mrs.Yasodha is Senior Citizen, aged about 80 years. She is the maternal grandmother of the second respondent. The petitioner states that she had executed a settlement deed in favour of the second respondent with respect to her properties. However, circumstances have arisen, and the petitioner now claims that the said document is void since she had been influenced into executing the settlement deed. These are facts stated in the affidavit, but controverted in the counter affidavit filed by the second respondent.

3. Let me not enter into a detailed discussion about either the execution of the settlement deed or about the necessity to cancel the settlement deed. They are matters now under purview of the District Collector at Coimbatore.



4. The petitioner herein had filed an application before the first respondent/Revenue Divisional Officer, Coimbatore North Division, Coimbatore, taking advantage of the provisions of the Maintenance and Welfare for Parents and Senior Citizen Act 2007. The order passed by the first respondent dated 27.05.2022 rejecting the said petition is now questioned in the present Writ Petition. But as pointed out, Section 16 of the said Act provides an Appeal can be filed by a Senior Citizen, who is aggrieved by the order of the Tribunal, in this case, the first respondent herein.

5. Once there is an appellate provision available and an alternate remedy available, it would only be appropriate that the petitioner exhausts such alternate appellate remedy. The Writ Court cannot examine, the circumstances surrounding the execution of the settlement deed, cannot examine the necessity as stated by the petitioner to the settlement deed and also cannot examine the statements of the second respondent upholding the fact that the settlement deed was executed in out of good, faith and love and without any misrepresentation or influence. These are facts under the exclusive purview of the appellate authority.



6. The petitioner has filed the present Writ Petition on 08.08.2022 after the period of limitation for filing the Appeal. However, let me be a little considerate and direct the petitioner to file necessary appeal before the District Collector at Coimbatore questioning the order of the first respondent dated 27.05.2022. The said Appeal should be filed on or before 15.02.2023. If it is so filed, then the District Collector may take it on record, if it is otherwise in order and issue notice to the concerned parties and proceed to hear the Appeal in manner known to law.

7. Taking into consideration that the petitioner is a Senior Citizen of advanced age, the District Collector, Coimbatore / Appellate Authority is directed to dispose of the Appeal within a reasonable time, preferably within a period of six months from the date of service of notice and entering of appearance by the respondents.

8. With the above direction, the Writ Petition stands disposed of. No costs.

03.01.2023

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order



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To

The Revenue Divisional Office
Coimbatore North Division
Coimbatore – 641 018.



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C.V.KARTHIKEYAN, J.,

vsg

W.P.No. 21657 of 2022

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