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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

**W.P.No. 25466 of 2021
and WMP.Nos.2978 of 2022
and 13656 of 2023**

Mr. Narayana Perumal

....Petitioner

-Vs-

1. The Revenue Divisional Officer,
Central Chennai,
Office of Revenue Divisional Office
No.5-73, SH 112, Gandhi Nagar,
Anna Nagar West Extension,
Chennai 600 040.

2. M.Jaya

3. The Sub Registrar,
SRO, Sembium,
No.340, Paper Mills Road,
Jaganathan Colony,
Perumbur, Chennai-11.

4. M.Vijayalakshmi

5. R.Selvi
**(RR4 & 5 impleaded vide order
dated 22.06.2023 in WMP.No.
3531 of 2022 in WP.No.25466
of 2021 by this Court)**

....Respondents



Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, call for the records and quashing the order passed the first respondent in Na.Ka.No.803/2021/A3, dated 01.11.2021.

Prayer amended as

Call for the records and quashing the order passed by the Revenue Divisional Officer in Na.Ka.No.803/2021/A3 dated 01.11.2021 registered as document Nos.3707 of 2021 and 3706 of 2021 respectively on the file of the 3rd respondent herein, executed by the second respondent in favour of the respondents 4 & 5.

(Prayer amended vide order dated 22.06.2023 in WMP.No.3532 of 2022 in W.P.no.25466 of 2021 by this Court)

For Petitioner	:	Ms.A.L.Gandhimathi, Sr.C. For M/s.R.Muthukumar
For Respondents	:	Mr.P.Sathish, AGP Mr.C.K.Chandrasekar For R2 Mr.M/s.B.Srikrishnan For RR4 & 5

ORDER

The petition has been filed seeking to quash the impugned order passed by the Revenue Divisional Officer in Na.Ka.No.803/2021/A3 dated 01.11.2021 registered as document Nos.3707 of 2021 and 3706 of 2021 respectively on the file of the 3rd respondent herein, executed by the second respondent in favour of the respondents 4 & 5.



2. It is the case of the Petitioner that the property of an extent of 1611 sq.,Ft., old Door No.18, old Door No.50, New Door No.34, S.R.P.Koil Street (North), T.V.K. Nagar, Chennai 600 082 belonged to his grandfather V.Narayana perumal being his ancestral, property and on 23.09.1975 and he was died intestate leaving behind his wife Mrs.Rajammal and son N.Manoharan to succeed his property.

3. It is the further case of the Petitioner that the property bearing old Door No.18, old Door No.50, New Door No.34, S.R.P.Koil Street (North), T.V.K. Nagar, Chennai 600 082, comprised in R.S.No.37/1 and 37/2 corresponding T.S.No.37 (as per Document) and T.S.No.177 in Block No.12 (as per Patta) of Peravallur Village, Purasawalkam-Perambur Taluk, Chennai District ad-measuring 3274.5 Sq.,Ft., was originally belonged to his father Manoharan and his grandmother Rajammal and same was acquired by them through indenture of Sale Deed dated 30.04.1983 registered as Document No.1863 of 1983 in the office of SRO, Sembium executed by the Honble X Assistant City Civil Judge, Chennai.

4. It is the further case of the petitioner that his grandmother combined



both the properties of an extent of 4885.5 Sq., Ft., and constructed the building and his grandmother died intestate on 23.07.1996 leaving behind his father N.Manoharan was her only legal heir to succeed the above property. Thereafter, the petitioner's father N.Manoharan executed the Settlement Deed dated 22.04.2009 registered as Document No.2537 of 2009 in the office of SRO Sembium in favour of his mother M.Jaya of an extent of 3274.5 Sq.,Ft., and retained the balance extent 1611 Sq.,Ft., and subsequently, the petitioner's parents sold 846 Sq.,Ft., of land along with 280 Sq.,Ft., pathway to One Ramesh and others through registered Sale Deed dated 19.11.2009 registered as Document No.7690 of 2009 in the office of SRO Sembium and retained the balance extent of property.

5. The petitioner's parents had executed the Settlement Deed dated 18.03.2010 registered as Document No.2179 of 2010 in the office of SRO Sembium in favour of him to an extent 3189 1/2 Sq.,ft along with 570 Sq.,Ft., pathway and in the said Settlement Deed dated 18.03.2010 registered as Document N0 2179. of 2010, they have retained life interest of the said property. There are three shops portion in the above said Property and his parents were entered into rental agreements with the tenants and collecting rents from them.



The petitioner's father died on 15.02.2019 and after his demise, the Petitioner mother M.Jaya is collecting rent from the tenants in the above said property.

After marriage, the petitioner and his wife is residing in one portion and his mother residing in another portion of the above said same property.

Subsequently, the Petitioner came to know the fact that his mother has initiated proceeding against him under Maintenance of Parents and Senior Citizens Act.

On 17.11.2020 the petitioner approached the 1st Respondent and enquired them that he was not served any notice for enquiry for proceeding vide No.Na.Ka.No.1942/2020/A5 and he is not aware of the said proceeding and the 1st Respondent has replied that they sent notice and the same was also served to him, thereafter only he understand that his mother has received the said notice sent to him and suppressed the same and was trying get ex-parte order against him.

6. In such circumstances, the Petitioner, on 17.11.2020, gave a representation to the 1st Respondent narrating all the facts and requesting them to serve notice to him for enquiry and they have not served any notice. Therefore, the petitioner approached this Hon'ble Court and filed Writ Petition in W.P.No.3087 of 2021 seeking Writ of Mandamus to direct the 1st Respondent to



conduct the enquiry of Na.Ka.No.1942/2020/A5 under Maintenance of Parents and Senior Citizens Act and Rules by giving opportunity of hearing to the Petitioner and pass an order on merit and the said Writ Petition was allowed on 15.02.2021 and direct the 1st Respondent to pass final orders on the application filed by the 2nd Respondent herein against the Petitioner under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and its Rules on merits and in accordance with law, after affording a fair hearing to the Petitioner including granting him the right of personal hearing within a period of twelve weeks from the date of receipt of a copy of the order.

7. Pursuant to which, the first respondent passed the impugned order NA.KA.No.803/2021/ A3 on 01.11.2021 and cancelled the Settlement Deed dated 18.03.2010 registered as Document No.2179 of 2010 in the office of SRO Sembium. Immediately after passing the impugned order, the second respondent has settled the properties in favour of her two daughters. Challenging the cancellation order passed by the first respondent dated 01.11.2021 and the settlement deed dated 17.11.2021, the present writ petition has been filed.

8. The learned counsel for the Petitioner submitted that the 1st



Respondent has not given any reason or any finding of any necessary statutory ingredients for cancellation of the Settlement Deed instead they cancelled the Settlement Deed only due to failure of mediation between the Petitioner and the 2nd Respondent and the said order sent to the 3rd Respondent to cancel the Settlement Deed and they have also registered the same. The impugned order was passed on 01.11.2021 and the same served to him only on 15.11.2021. The 1st Respondent has not conducted the enquiry as prescribed under Maintenance and Welfare of Parents and Senior Citizens Act 2007 and its Rules. After passed the impugned order, the second respondent executed the impugned order in favour her two daughters vide order dated 17.11.2021, doc. Nos.3707 and 3706 on the file of the SRO, Sembium. Challenging the said documents, the petitioner filed an amendment petition and impleading petition before this Court and the same is also ordered by this Court. The learned counsel for the petitioner prays that this Court may set aside the impugned order and allow the writ petition.

9. The learned counsel for the second respondent submitted that it is true that the second respondent and her husband executed a settlement deed in favour of the petitioner vide order dated 18.03.2010 and the said property consists of three shops and two residential portion. In which, the petitioner is



resideing in one portion and the second respondent is residing in another portion.

Though the petitioner has been received the entire rent from the tenants.

However, the petitioner has not even paid a single pie to the second respondent.

The petitioner has not even spent any amount to the funeral of his father. Further the petitioner were beaten the second respondent on one fateful day. Thereby she sustained injuries and taken treatment and thereafter, she made a complaint before the law enforcing agency. Such being the position, the petitioner is not entitled for enjoying the properties. In view of the interim order passed by this court, the petitioner handed over the shops to the second respondent. At present, the second respondent has received the rent for the shops for her livelihood. If this court interferes with the impugned order, the second respondent has no safety and petitioner and his wife will alienate the said properties to the third parties.

10. The learned Additional Government Pleader submitted that the petitioner failed to take care of his parents and received all rental income out of the subject properties and started ill treating and abusing his parents. Under such circumstances, the second respondent approached the first respondent praying appropriate orders for maintenance. Even thereafter, multiple opportunities were



offered to the petitioner to reconcile and amicably settle the matter amongst them. The petitioner has not taken any interest in this matter. Therefore, the first respondent has rightly passed the impugned order dated 01.11.2021 by cancelling the settlement deed dated 18.03.2010 executed in favour of the petitioner, which does not warrant any interference.

11. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent as well as the learned Additional Advocate General appearing for the State and perused the materials available on record.

12. The facts of the case are not in dispute. The main grievance of the second respondent is that the second respondent and her husband executed a settlement deed in favour of the petitioner vide document No.2179 of 2010 dated 18.03.2010. Subsequently, the petitioner's father died. Thereafter, a dispute arose between the petitioner and his mother for not properly maintained her. In view of the same, the second respondent made a complaint under Maintenance of Parents and Senior Citizens Act before the first respondent. After fulfilled enquiry, the first respondent has passed the impugned order by cancelling the settlement deed which was executed by the second respondent and his husband.



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13. The grievance of the petitioner is that firstly, the first respondent has not given sufficient opportunity to the petitioner to contest the proceeding. Secondly, the petitioners parents have settled the properties in his favour. Once the properties are transferred in his favour, which cannot be cancelled by the first respondent as the petitioner is an absolute owner of the said properties. The competent civil Court have only power to cancel the said settlement deed and the first respondent have no power to cancel the same.

14. Considering the fact that there is an allegation against the petitioner that he is not properly taken care of his mother and also he collected the entire funeral expenses of his father from his mother and also of the fact that the petitioner has collected the entire rent from the tenants and not paid any amount to the second respondent for her livelihood, this Court is inclined to passed the following orders:

1. The present impugned order dated 01.11.2021 passed by the first respondent and also the settlement deeds dated 17.11.2021 registered as document Nos.3707 and 3706 of 2021 in favour of the respondents 4 & 5 has to be adjudicated only by the competent civil Court;



2. Accordingly, the petitioner is directed to approach the competent civil Court against the private respondents for establishment of his right over the subject properties;

3. If the petitioner files a suit, the concerned Judge, shall decide the issue on merits, without influencing the impugned orders passed by the respondents.

4. The second respondent is directed to collect the entire rents from three shops till her lifetime;

15. With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

22.06.2023

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To

1. The Revenue Divisional Officer,
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2. The Sub Registrar,
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M.DHANDAPANI, J.

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W.P.No. 25466 of 2021

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