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W.P.No.29425 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29425 of 2022

and

W.M.P.Nos.28764, 28766 and 28767 of 2022

K.Rajaperumal

... Petitioner

Vs.

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Sub-Division Administrative Magistrate
-cum- Revenue Divisional Officer,
Harur, Dharmapuri District.

3.The Sub-Registrar,
Office of Registration,
Morappur,
Dharmapuri District.

4.Chinakkal

... 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 relating to the impugned order passed by the 1st respondent dated 12.10.2022 made in Se.Mu.Na.Ka.No.2559/A1/2021 confirming the order of the 2nd respondent



dated 15.02.2022 in Pa.Mu.No.12/2022/A3 and to quash the same and consequently direct the 3rd respondent to remove the entry in encumbrance in respect of the properties situated at in S.No.5/2C to an extent of 1.25 acres of land and S.No.3/2B1 to an extent of 0.66.5 hectares situated at Obilinayakkanpatti Village, Harur Taluk, Dharmapuri District.

For Petitioner : Mr.C.Prabakaran
For R1 to R3 : Mr.D.Ravichander,
Special Government Pleader
For R4 : Mr.P.Praveenkumar

ORDER

The order passed by the 1st respondent on 12.10.2022, confirming the order passed by the 2nd respondent dated 15.02.2022 are sought to be quashed in the present writ petition.

2. The writ petitioner states that the 4th respondent, who is the his paternal grandmother had executed a Sale Deed in his name with reference to the property prescribed in the writ petition. A Deed of Sale was executed on 06.04.2009 for a sale consideration of Rs.62,000/-. The petitioner states that the 4th respondent, who is his grandmother is in the habit of selling properties



from the year 1995 to various people. She has executed nearly about 30 sale deeds and more so, she has gifted a portion of a property to the local authority for the purpose of laying the public road.

3. The learned counsel for the petitioner mainly contended that the petitioner was all along maintaining the 4th respondent since the death of his father. He is ready to maintain the 4th respondent even now or in alternate ready to pay monthly maintenance amount. It is contended that the 4th respondent is interested in getting back the property and in the absence of any condition to that effect in the sale deed, the authorities have committed an error in setting aside the document, which is otherwise executed by the 4th respondent in accordance with law.

4. The learned counsel appearing on behalf of the 4th respondent raised an objection by stating that the allegations against the writ petitioner are serious in nature. No one has taken care of the 4th respondent, who is now aged about 85 years and the petitioner has executed the Sale Deed in his favour in a fraudulent manner and by way of misrepresentation. The petitioner falsely promised that he will maintain his grandmother / 4th



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respondent and after execution of Sale Deed, the petitioner deserted the 4th respondent / grandmother and therefore, the 4th respondent filed a complaint under the provisions of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. The 4th respondent in her complaint has stated that her husband died in the year 2013 and the property belonging to the family has not been partitioned. She was aged about 85 years and on account of her old age, the writ petitioner, who is the son of her second son obtained a Sale Deed under the guise of stating that he will get a loan from the Bank by pledging the document. After execution of the document, the 4th respondent says that the petitioner neglected her and subsequently, she came to know that the petitioner has cheated her and executed a Sale Deed in his favour.

5. The learned counsel for the 4th respondent states that there was no necessity for the 4th respondent to execute a Sale Deed in favour of the petitioner. The petitioner cleverly executed a Sale Deed as if he has paid the sale consideration. The sale consideration for the property to the extent of 1 acre and 25 cents for a sum of Rs.62,000/- and the market value of the property is running more than Rs.50,00,000/-. When the value of the property is more than Rs.50,00,000/-, the Sale Deed was executed for a sum of



Rs.62,000/-, more so, for the property to an extent of 1 acre and 25 cents, which is a fertile and agricultural land.

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6. The learned counsel for the 4th respondent brought to the notice of this Court that since the petitioner deserted the 4th respondent and the 4th respondent gifted a portion of a property for laying public road and now the village people is taking care of the 4th respondent, who is aged about 87 years.

7. It is brought to the notice of this Court that the said property has been converted as house plots and layout has been formed. Thus, the value will be still more and therefore, the case was considered by the authorities with reference to the allegations raised by the 4th respondent against the petitioner.

8. The Original Authority / Revenue Divisional Officer conducted an enquiry and obtained statements from the 4th respondent. However, the Act contemplates summary proceedings. Thus, based on the enquiry and relying on the statements of the parties, the Revenue Divisional Officer arrived at a conclusion that the petitioner failed to maintain his grandmother / 4th



respondent and therefore, the 4th respondent is entitled for the relief under the provisions of the Senior Citizen Act. The petitioner preferred an Appeal before the District Collector. The District Collector recorded the facts and rejected the Appeal on the ground that the Appeal provision is made available only to the Senior Citizen and not to the opposite party in the complaint.

9. The learned counsel for the petitioner made a submission that the petitioner is ready to pay a sum of Rs.2000/- as a monthly maintenance. Thereafter, a representation was made that the petitioner will be paying a sum of Rs.5000/- or Rs.7,500, but this Court is afraid that in the event of fixing such a maintenance in a writ proceeding, the payment to be made by the petitioner cannot be monitored effectively. The conduct of the writ petitioner is that, this Court cannot trust the statement made by him before this Court regarding the monthly maintenance amount.

10. Even if such conditional orders are passed, it would be very difficult for the 4th respondent to get it implemented, since she is illiterate and



aged about 87 years old. She is at the fag end of her life. Therefore, this Court is bound to take note of the mitigating factors prevailing with reference to the facts. The reasons stated for cancelling the document under the Senior Citizen Act is candid and convincing. The petitioner got the sale deed executed for a meagre sum of Rs.62,000/-, when the market value of the property is more than Rs.50,00,000/- even in the year 2009 at the time of execution of Sale Deed and more so, now the property has been converted into house sites and the market value will be sky rocketing.

11. Considering the facts and circumstances, this Court do not find any infirmity in respect of the orders passed by the original Authority and the Appellate Authority.

12. The learned counsel for the 4th respondent brought to the notice of this Court that the petitioner deserted the 4th respondent and the 4th respondent gifted a portion of a property for forming the public road and now the village people are taking care of the 4th respondent, who is aged about 87 years.



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13. Thus, the petitioner has not made out any acceptable ground and accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.06.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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