



WEB COPY



W.P. No. 29660 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 29660 of 2023

and

W.M.P. No. 29267 of 2023

V.Murugananathan

... Petitioner

-VS-

1. The District Collector of Coimbatore cum Appellate Tribunal,
Office of the District Collector,
Coimbatore – 641 018.
2. The Sub Collector cum Maintenance Tribunal
under the Maintenance and Welfare of Parents and Senior Citizens,
Pollachi – 642 001.

3. V.Andal

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order dated 21.04.2023 passed by the First Respondent in Proceedings Pa. Mu. No. 665390/2023/U2 and quash the same.

For Petitioner : Mr. S.Prabhu

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader



W.P. No. 29660 of 2023

WEB COPY

ORDER

Heard Mr. S.Prabhu, Learned Counsel for the Petitioner and Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Having regard to the nature of order proposed to be passed in the Writ Petition, which would not cause any prejudice to the Third Respondent, notice to her is dispensed with.

3. The Third Respondent, who is a Senior Citizen, had executed a settlement-deeds dated 15.02.2007 registered as Document Nos. 353 to 355 of 2007 in the office of the Sub-Registrar, Negamam transferring her property in favour of the Petitioner. She had made an application invoking Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act' for short) for treating the said settlement-deed as void before the Second Respondent, who by Order in Na.



W.P. No. 29660 of 2023

Ka. No. 2592/2022/A1 dated 06.01.2023 directed the Petitioner to refrain from interfering with the peaceful possession of the Third Respondent in addition to maintenance of Rs. 4,000/- per month. The Petitioner had preferred an appeal under Section 16 of the Act and the First Respondent by Order in Pa. Mu. No. 665390/2023/Vu2 dated 21.04.2023 had rejected it, which is challenged in this Writ Petition.

4. The Division Bench of this Court in the authoritative pronouncement in ***K.Raju -vs- Union of India*** [(2021) 2 CTC 129] has ruled that Section 16 of the Act enables only a 'Senior Citizen' or 'Parent' to invoke the right of appeal under that legal provision, and none else could avail such remedy. This would obviously mean that the appeal preferred by the Petitioner before the First Respondent was not maintainable and the Order in Pa. Mu. No. 665390/2023/Vu2 dated 21.04.2023 passed by the First Respondent is *non est* in the eye of law. As its consequence, the validity of the Order in Na. Ka. No. 2592/2022/A1 dated 06.01.2023 passed by the Second Respondent would fall for consideration and the Petitioner is not precluded from assailing it in appropriate legal proceedings.



W.P. No. 29660 of 2023

WEB COPY

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed.

No costs.

31.10.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

vjt

To

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WEB COPY



W.P. No. 29660 of 2023

P.D. AUDIKESAVALU, J.

vjt

W.P. No. 29660 of 2023

31.10.2023