



W.A.No.3259 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.3259 of 2023

1.S.Fathimuthu Zohara

2.S.Khader Fathima

.. Appellants

Vs.

1.The Revenue Divisional Officer,
North Chennai Revenue Division,
RDO Office, Gandhi Main Road,
Puzhal, Chennai-600 066.

2.F.Hajarah

.. Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 17.10.2023 passed in W.P.No.29893 of 2023.



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For the Appellants : Mr.A.Murugamanickam
Senior Counsel
for Mr.D.Abdullah

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.T.K.Saravanan
Government Advocate
for respondent No.1

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.A.Murugamanickam, learned Senior Counsel for Mr.D.Abdullah, learned counsel for the appellants; and Mr.P.Muthukumar, learned State Government Pleader, assisted by Mr.T.K.Saravanan, learned Government Advocate for the first respondent.

2. The appellants had filed a writ petition, bearing W.P.No.29893 of 2023, before the learned Single Judge challenging the proceedings initiated vide notice dated 25.9.2023.

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3. The present respondent No.2 is the mother of the appellants. She had filed proceedings before respondent No.1 invoking the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for brevity, "*the Act of 2007*"). A settlement deed was executed by the present respondent No.2 in favour of the appellants. The said initiation of the proceedings was challenged by the present appellants before the learned Single Judge. The learned Single Judge, on the premise that the enquiry initiated cannot be interfered with in a writ petition, disposed of the writ petition. Aggrieved thereby, the present appeal is filed.

4. Learned Senior Counsel for the appellants submits that respondent No.1 could not have assumed the jurisdiction unless the grounds enumerated in Section 23 of the Act of 2007 are detailed. Respondent No.2 has filed application for cancellation of the settlement deed on the ground that the same was



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executed under coercion and undue influence. In the settlement deed, there was no clause to provide maintenance or any basic amenities or physical needs to respondent No.2. Sub-section (2) to Section 23 of the Act of 2007 is not attracted. In the absence thereof, respondent No.2 could not have issued notice to the appellants.

5. The learned Single Judge observed that it is only notice initiating enquiry and no final order is passed. Naturally, the appellants will have every opportunity to put forth their say to the notice and the say filed by the present appellants certainly shall be considered by respondent No.1 before arriving at the decision. The appellants will have opportunity to place on record the documents and their stand/defence. Respondent No.1 shall consider the defence raised by the appellants while dealing with the application filed by respondent No.2 under the provisions of the Act of 2007. The appellants may appear before the authority and file their say.

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6. With these observations, the writ appeal is disposed of.
There will be no order as to costs. Consequently, C.M.P.No.26551
of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

23.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

The Revenue Divisional Officer,
North Chennai Revenue Division,
RDO Office, Gandhi Main Road,
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