



W.P.(MD) No.4124 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.4124 of 2020
and
W.M.P.(MD) No.3484 of 2020**

G.Velmurugan

... Petitioner

/vs./

1.The Revenue Divisional Officer,
The District Collector Office,
Madurai.

2.The District Social Welfare Officer,
Madurai District,
Madurai.

3.G.Dhanalakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings initiated by the Revenue Divisional Officer, Madurai under the impugned proceedings dated 03.02.2020 in Na.Ka.No.7282/2018/J Under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and quash the same.



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For Petitioner : Mr.N.Dilip Kumar
For R1 & R2 : Mr.A.Sivanu Pandian
Government Advocate
For R3 : Mr.R.Karunanidhi

ORDER

The petitioner seeks to quash the proceedings initiated by the first respondent in proceedings dated 03.02.2020 in Na.Ka.No.7282/2018/J under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*herein after referred to as Act*).

2.The enquiry is sought to be held by the first respondent on the basis of the representation dated 06.08.2018 submitted by the third respondent, the mother of the petitioner before the second respondent, the District Social Welfare Officer, Madurai, requesting him to help her in fulfilling her desire to give the properties, which she had settled on the petitioner, to her daughters.

3.The learned counsel for the petitioner would submit that the petitioner's mother had executed a settlement deed in favour of the petitioner and his elder



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brother on 25.07.2011 gifting one item in favour of the petitioner and the other in favour of his brother. This settlement deed had been accepted and the revenue records pertaining to the property had been transferred in the names of the respective settlees. Thereafter, the third respondent acting on the advise of the petitioner's sisters had unilaterally cancelled the settlement deed, vide cancellation deed dated 31.05.2013 registered as Doc.No.2931 of 2013 on the file of the Sub Registrar, Chokkikulam and she had executed a settlement deed on the very same day in favour of her daughters. This constrained the petitioner to file a suit O.S.No.646 of 2013 for declaration that the unilateral cancellation deed and the subsequent settlement deed as null and void and for the consequential reliefs. The suit, after trial, was decreed in favour of the petitioner on 12.12.2017, as against which, there was no appeal. Thereafter, the petitioner and his brother had filed O.S.Nos.310 and 311 of 2019 respectively for declaration of title, recovery of possession and other reliefs. The third respondent had entered appearance in the suit.

4.Parallelly, the third respondent had filed a representation before the second respondent, who, in turn, has forwarded the same to the first respondent



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and the first respondent has now called the petitioner for enquiry. The writ petitioner has filed this writ petition questioning the jurisdiction of the first respondent to entertain the application under the Act and to hold an enquiry. The first respondent is not vested with the jurisdiction or the authority to conduct the enquiry, as the prayer does not fall within the contours of the Act.

5.The respondents, who had made their oral submissions, had not filed their counter.

6.The learned counsel for the third respondent would submit that the third respondent was constrained to file the proceeding, since she has not been taken care of by the petitioner, her son and therefore, she has invoked the jurisdiction of the first respondent under the Act. Therefore, no exception can be taken to the proceedings.

7.Heard the learned counsels appearing on either side.



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8.As the name reads, the enactment seeks to ensure that the parents and the senior citizens are not left to fend for themselves, particularly when they are aged and unable to maintain themselves. Therefore, the Act provides for applications being made by them seeking maintenance from the children or the relative, to whom a senior citizen has given his property. Section 23 of the Act talks about declaring the transfers void in certain circumstances. It states that if the settlement deed provides that the settlee shall take care of the senior citizen and that happens to be the condition for executing the document and there is a violation of the term, then it is well open to the senior citizen to move the Court to have the settlement deed set aside.

9.In the case on hand, the settlement deed was cancelled and the same was challenged by the petitioner before the civil Court, where the suit was decreed in his favour and the cancellation was set aside. Another suit for recovery of possession is also pending consideration. At this juncture, the petitioner has moved the first respondent seeking the relief, which does not fall within the jurisdiction of the first respondent.



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10. The first respondent is vested with the jurisdiction to entertain the application in the following circumstances:-

- a) where the transfer is effected after the commencement of the Act; and
- b) where the document of transfer contains a condition that the transferee shall provide the basic amenities and basic physical needs of the transferrer;

11. The case on hand does not fulfil any of these conditions. The third respondent seeks to cancel the document to give it to her daughters. Further, the cancellation has been declared as void by a civil Court. Therefore, the invocation of the jurisdiction of the first respondent, the Revenue Divisional Officer, Madurai, is without jurisdiction and hence, the Writ Petition is allowed. The impugned notification dated 03.02.2020 in Na.Ka.No.7282/2018/J si hereby quashed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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P.T.ASHA, J.

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