



W.P.(MD).No.4865 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.4865 of 2020
and
W.M.P.(MD).No.4243 of 2020**

C.Saravanan

... Petitioner

Vs.

- 1.The Revenue Divisional Officer,
Devakottai Taluk,
Sivagangai District.
- 2.The Deputy Superintendent of Police,
Devakottai Taluk,
Sivagangai District.
- 3.The Tahsildhar,
Devakottai Taluk,
Sivagangai.
- 4.The Sub Registrar,
Devakottai Taluk,
Sivagangai.
- 5.The Sub Inspector of Police,
Velayuthapattinam,
Devakottai Taluk.
- 6.C.Chidambaram



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7.C.Chinnakannan

8.C.Pavithra

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first respondent/Sub-Divisional Executive Magistrate cum Revenue Divisional Officer, Devakottai dated 09.01.2020 in Mu.Mu.A1/8856/2019 and the consequential summon issued by the fifth respondent / Sub Inspector of Police, Velayuthapattinam Police Station dated 28.02.2020 and quash the same.

For Petitioner : Mr.N.Dilip Kumar

For R-1, R-3
and R-4 : Mr.C.Baskaran,
Government Advocate.

For R-2 and R-5 : Mr.K.Sanjai Gandhi,
Government Advocate,
(Criminal Side).

For R-6 : Mr.S.Madhavan

ORDER

This Writ Petition is filed to quash the order dated 09.01.2020 passed by the first respondent and the consequential summon issued by the fifth respondent / Sub Inspector of Police, Velayuthapattinam Police Station dated 28.02.2020.



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257. The relevant portion is extracted hereunder:

*“46. The writ petition in W.P(MD)No.6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The gift deed executed by the second respondent in favour of the writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. **The second respondent has specifically stated that he has no right to revoke the settlement deed.** From the recitals, the settlement does not attract Section 126 of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. In other words, the gift deed is not subject to any condition or terms that the transferor*



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shall provide the basic amenities and basic physical needs to the second respondent. In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under Section 23 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Therefore, the order impugned is liable to be quashed....”

3. Since the settlement deed is executed prior to the Act, the sixth respondent cannot invoke the said Act to revoke the settlement deed, which is executed in favour of the petitioner. Moreover, the sixth respondent is receiving pension to the tune of Rs.40,000/-. Therefore, this Court is inclined to allow the Writ Petition. The impugned order is set aside.

4. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

09.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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