



W.P.(MD)No.7415 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7415 of 2020

and

W.M.P(MD)Nos. 6868 of 2020 and 12664 of 2021

Veeralakshmi

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2. P.Aundiappan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the enquiry notice issued by the 1st respondent in Na.Ka.No.A2/8028/2019, dated 16.06.2020 and quash the same.

For Petitioner : M/s.K.Kumaravel

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader, for R-1

Mr.A.Nawazhkan, for



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M/s.Ajmal Associates, for R-2
ORDER

This writ petition has been filed to quash the impugned enquiry notice, dated 16.06.2020.

2. The petitioner is the daughter of the 2nd respondent. The 2nd respondent has executed a registered settlement deed, dated 20.08.2008. The 2nd respondent has not stated that the settlement is executed for the reason that the petitioner ought to take care of the 2nd respondent. Moreover, the settlement has no revocation of clause.

3. It is an admitted fact that Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came into effect only on 29.09.2008. As per the above said Act, the 1st respondent is the appropriate authority to revoke the settlement, if the children have not adhered to the conditions or if they left the parents.

4. In the present case, since there is no condition that the settlement is executed for taking care of the 2nd respondent coupled with the fact that there is



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no revocation clause, the respondents cannot cancel the said settlement deed.

Moreover, the Act came into effect subsequently.

5. The Hon'ble Full Bench of this Court in the case of Sasikala Vs. Revenue Divisional Officer & another reported in 2022 (5) CTC 257 has already decided the issue and has categorically held that, if there is no revocation clause, then the authority cannot consider the claim of the parent to cancel the settlement deed, by invoking the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. 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*



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other words, the gift deed is not subject to any condition or terms that the transferor 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....”

6. However, the 2nd respondent vehemently contended that the writ petition has been filed only to quash the impugned notice, dated 16.06.2020 and the impugned notice issued to conduct an enquiry under the Senior Citizens Act. It is a settled proposition that the enquiry notice cannot be challenged and writ is not maintainable. This Court is of the considered opinion that the 1st respondent is not having jurisdiction to consider the case of the 2nd respondent, since the settlement deed was executed prior to the Act and there is no revocation clause. In such circumstances, the impugned notice issued to conduct an enquiry under the Senior Citizens Act would be an 'empty formality'. Therefore, this Court is inclined to entertain this writ petition. The impugned enquiry notice, dated 16.06.2020 is hereby quashed.



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7. However, the petitioner is directed to pay a sum of Rs.2 lakhs, to the 2nd respondent, in three equal installments, since the 2nd respondent is under poor conditions. With these directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No

25.07.2023

Internet : Yes

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To:

The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.7415 of 2020**

25.07.2023