



W.P.(MD) No.8655 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8655 of 2020

Kalimuthu

.. Petitioner

Vs.

- 1.The District Collector cum
District Magistrate,
Sivagangai,
Sivagangai District.
- 2.The Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Devakottai, Sivagangai District.
- 3.The District Registrar,
O/o. District Registrar Office,
Sivagangai District.
- 4.The Sub-Registrar,
O/o. Sub-Registrar Office,
Karaikudi, Sivagangai District.
- 5.The Inspector of Police,
Kunrakudi Police Station,
Sivagangai District.
- 6.Urmila

.. Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the first to fourth respondents to cancel the registered Settlement Deed dated 15.07.2011 bearing Document No.5218/2011 executed by the petitioner to his son namely Selvan died on 19.01.2020 in respect of property in Patta No.903 and New Patta No.1154 bearing S.Nos.290/10, 290/11, 290/12, 290/17 and 290/18 respectively situated in Thulavur Village, Thatthati Panchayat, Kallal union, Thiruppathur Block, Karaikudi, Sivagangai District based on the Petitioner's representation dated 09.03.2020.

For Petitioner : Mr.S.Vanchinathan
For RR1 to 5 : Mr.C.Satheesh
Government Advocate
For R6 : Mr.C.Arulvadivel @ Sekar

ORDER

The petitioner has filed the above writ petition for the following relief:

“For the issue of a Writ of Mandamus, directing the first to fourth respondents to cancel the registered Settlement Deed dated 15.07.2011 bearing Document No.5218/2011 executed by the petitioner to his son namely Selvan died on 19.01.2020 in respect



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of property in Patta No.903 and New Patta No.1154 bearing S.Nos.290/10, 290/11, 290/12, 290/17 and 290/18 respectively situated in Thulavur Village, Thatthati Panchayat, Kallal union, Thiruppathur Block, Karaikudi, Sivagangai District based on the Petitioner's representation dated 09.03.2020."

2. It is the petitioner's case that under a registered settlement deed dated 15.07.2011, he had settled certain properties upon his son Selvan. The deed was registered as Document No.5218/2011. It is his case that this settlement had come through only at the instance of the sixth respondent, who is none else than the daughter-in-law of the petitioner. He would submit that he and his wife are residing at No.18/2, 'G' Block, Sekkalai, Karaikudi, Sivagangai District, and that he is a senior citizen and a retired employee of the Indian Oil Corporation, Mumbai. The petitioner and his wife had three children viz., two daughters and a son viz., Selvam. All of them are married and are residing with their family. It is also the case of the petitioner that after his retirement, he has been running a nursery garden namely Samyutha and Sachin Balaji at Thulavur, Kunrakudi, Sivagangai District.



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3. It is the further case of the petitioner that when the agreement was entered into, his son and daughter-in-law had undertaken to take care of himself and his wife throughout their lifetime. The petitioner's son Selvam was working abroad and had returned back to India on 11.01.2020. On 19.01.2020, he had died of an unknown cause. The petitioner would make it sound that the sixth respondent was the cause for the death of his son. He would further submit that on 17.02.2020, when he entered the nursery garden, he was brutally attacked by the relatives of the sixth respondent's sister. Therefore, he had lodged a complaint with the fifth respondent on 17.02.2020 and a case has been registered and is pending.

4. It is the case of the petitioner that he had filed a direction petition before this Court in CrI.O.P.(MD) No.4425 of 2020 to direct the fifth respondent to give police protection for the life and limb of the petitioner. He would further submit that after the death of his son, the sixth respondent does not have any intention to provide financial



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assistant and her only intention appears to be to grab the property. Since the sixth respondent was not inclined to provide the basic amenities, the petitioner was constrained to cancel the settlement deed dated 15.07.2011 under Document No.5218/2011. Therefore, the petitioner made a representation to the first respondent to take action to cancel the registered settlement deed dated 15.07.2011 and a representation dated 09.03.2020 was sent to respondents 1 to 4 praying for the cancellation of the registered settlement deed. It is the case of the petitioner that the first respondent is the competent person to cancel the settlement deed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act” for brevity). However, no steps have been taken by respondents 1 to 4 in this regard. Therefore, the petitioner has come forward with the present case.

5. The sixth respondent has filed a counter *inter alia* contending that the petitioner has suppressed material fact before this Court and that the writ petition is not maintainable, since there is no legal duty or obligation cast on the official respondents. She has denied the wordy



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quarrel as alleged by the petitioner. She would submit that after the demise of her husband, she has to take care of her daughter aged about 16 years and son aged about 11 years and she being only a house wife, is depending upon the meagre income that has been derived from the lands settled on her husband. She would submit that there are two houses in Plot No.18/2, 'G' Block, Sekkalai, Karaikudi, having two different door numbers. The petitioner and his wife are residing in one door number bearing Old No.53 (New No.21), whereas the sixth respondent is living with her children in Door No.21/1. It is her further case that the house had been put up only from and out of the income derived by her husband. Further, it is also her contention that the petitioner has filed a civil suit in O.S.No.30 of 2020 on the file of the District Munsif, Karaikudi, for eviction and recovery of possession and the same is pending. The sixth respondent would further submit that the unilateral cancellation of the settlement deed, that too, after so many years is not permitted and a settlement deed cannot be cancelled or revoked, unless it falls within the exception of Section 126 of the Transfer of Property Act, 1882. She would therefore, seek to have the petition dismissed.



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6. Heard the learned counsel on both sides.

7. The provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be invoked under two contingencies as set out in Section 23 of the Act. The transfer in certain cases would be void where the document contains a condition that the transferee shall provide such basic amenities and basic physical needs to the transferor and the transferee refuses or fails to provide such amenities and physical needs, it is only in these two contingencies that a transfer would be termed fraudulent one or one obtained by undue influence. Admittedly, in the instant case, the settlement deed had been executed in the year 2011. The document does not contain any clause to take care of the parents. Further, the records would show that the petitioner has, after the demise of his son, unilaterally cancelled the settlement deed which is an invalid cancellation.

8. Considering the fact that the writ petition has been filed primarily by invoking the provisions of the Act, this Writ Petition is



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dismissed. If the petitioner is aggrieved, his remedy is elsewhere and not before this Court. No costs.

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

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