



W.P(MD)No.8680 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.8680 of 2023

and

W.M.P(MD)No.7952 of 2023

1.Jibriya Banu

2.Ubaidhulla Khan

... Petitioners

Vs.

1.The District Collector
Ramanathapuram District,
Ramanathapuram.

2.The Sub Divisional Magistrate Cum Sub Collector,
Paramakudi,
Ramanathapuram District.

3.John Mohamed

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition prohibiting the second



W.P(MD)No.8680 of 2023

respondent from proceeding with the enquiry pursuant to the notices dated 24.01.2023 and 24.02.2023 issued under Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioners : M/s.A.Afritha Fathima
for M/s.Ajmal Associates

For Respondents : Mr.J.Ashok, - for R1 & R2
Additional Government Pleader

ORDER

Orders are passed in the writ petition is even without issuing notice to the third respondent herein.

2. The third respondent is the father-in-law of the first petitioner and father of the second petitioner. He had preferred a petition taking advantage of the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and had given an application before the second respondent herein. That was with respect to a settlement deed, dated 06.03.2012 which was registered as Document No.1077 of 2012 before the Sub Registrar, Keelakarai, in favour of



W.P(MD)No.8680 of 2023

children of the petitioners and also the second petitioner herein. Another settlement deed, had been executed on 23.08.2021 registered as Document No.901 of 2021 again settling a portion of the property in favour of the second petitioner and another portion in favour of the children of the petitioners herein.

3. The learned counsel for the petitioners stated that under Section 23 of the Act, there must be a recital in the settlement deed that a reversal obligation is required on behalf of the settlees to take care of the settlor and in the absence of such clause, the entire exercise of examining the petition given by the third respondent would only be an exercise in futility.

4. But this Court cannot frustrate on going enquiry. The petitioners may participate in the enquiry and they may produce the legal position so far as interference with documents concerned under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



W.P(MD)No.8680 of 2023

WEB COPY

5. I am confident that the second respondent would appreciate the legal submissions made on behalf of the petitioners herein. It is always prudent that any authority, whether a judicial authority or a quasi judicial authority is permitted to proceed further and necessary legal aspects are pointed out during the course of enquiry and an obligation is placed on the said authority to pass a considered order with reasons, which order can be subsequently questioned in appropriate manner.

6. The writ petition therefore, is dismissed giving liberty to the petitioner herein to putforth all legal submissions both on facts and on law and on precedents before the second respondent and an obligation is placed on the second respondent to examine all the submissions made. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2023

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



WEB COPY



W.P(MD)No.8680 of 2023

To

- 1.The District Collector
Ramanathapuram District,
Ramanathapuram.
- 2.The Sub Divisional Magistrate Cum Sub Collector,
Paramakudi,
Ramanathapuram District.



WEB COPY



W.P(MD)No.8680 of 2023

C.V.KARTHIKEYAN, J.

RM

W.P(MD)No.8680 of 2023

(2/2)

18.04.2023