



W.P(MD)No.13737 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.13737 of 2023

and

W.M.P(MD)Nos.11550 & 11551 of 2023

Pandi Krishnaveni

... Petitioner

Vs.

1.The District Collector
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai.

3.Pandaiarajan

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned proceedings in Na.Ka.A1/2457/2023 dated 28.3.2023 and 25.5.2023 on the file of the 2nd respondent herein and quash the same.



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For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.J.Ashok,
Additional Government Pleader

ORDER

The learned counsel for the petitioner questions a show cause notice issued by the second respondent dated 28.03.2023 in Na.Ka.A1/2457/2023, which had been issued on a petition given by the father of the petitioner who had taken recourse to the provisions under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. The notice is questioned on two grounds.

3. The learned counsel states that the second respondent / Revenue Divisional Officer, has no authority to enquire into the complaint, since a reading of the settlement deed which had been executed by the third respondent does not reveal that there was a



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corresponding duty on the part of the petitioner to maintain the third respondent.

4. In this connection, the learned counsel states that Section 23(1) of the aforementioned Act, is very clear in its terms that only when there is a specific covenant in the settlement deed or any document sought to be cancelled, that the settlee or beneficiary under the document should look after the Senior Citizen can an enquiry at all be conducted under Section 23 of the said Act.

5. The petitioner may put forth these points before the second respondent and I am confident that if the petitioner does draw attention to the specific covenants before the second respondent, it would be examined and given due credence.

6. The position of law had been stated by the Hon'ble Supreme Court on this aspect and the learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in *Civil Appeal No.174 of 2021 Sudesh Chhikara Vs. Tamti Devi and another*, dated 06.12.2022.



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7. I am confident that if the second respondent is properly informed about the rationale laid in said judgment, he would realize the limits to which or the jurisdiction to which the statutory duty would extend and pass appropriate orders.

8. The second ground on which the notice is questioned by the learned counsel is actually a grievance expressed. That grievance is that the second respondent has apparently deputed his Personal Assistant to conduct the enquiry. This is not proper.

9. The petitioner had given a complaint in this regard to the first respondent/ District Collector. It is further represented by the learned counsel that the first respondent had called for remarks from the very Officer against whom such complaint has been lodged namely, the second respondent. It is only but natural that remarks are called for, since opportunity has to be granted to the second respondent to explain whether such complaint is correct or not.



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10. Let me place a caveat on the second respondent that he and he alone authorised by the statute, to enquire into the complaint given by any Senior Citizen and under no circumstances should he depute his Personal Assistant to conduct such enquiry. The Personal Assistant can be of assistance to him, in discharge of any other duty, but certainly not in discharge of a statutory obligation which is thrust on him under an Enactment.

11. Giving necessary leverage to the petitioner herein to raise all these aspects, the Writ Petition stands disposed of even without issuing notice to the third respondent. No costs. Consequently, connected miscellaneous petitions are closed.

13.06.2023

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

RM



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Sivagangai.
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C.V.KARTHIKEYAN, J.

RM

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