



W.P(MD)No.16636of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16636of 2022

and

W.M.P(MD)Nos.12048, 12051 & 19067 of 2022

Roothammal @ Loorthammal

... Petitioner

Vs

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Revenue Divisional Officer cum
Presiding Officer of the Tribunal under
Maintenance and Welfare of the Parents &
Senior Citizens Act, Kovilpatti.

3.Stalin

4.John Peter

5.Elizabeth

6.Maria Pushpam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent passed in his proceedings in Moo.Mu.M.R/6156/2021 dated 10.11.2021 and quash the same and consequently directing the respondents 1 and 2 to take necessary action to



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cancel the settlement deeds made in Document No.1004/1996 dated 21.06.1996, Document Nos.1202, 1203 and 1204 of 2014 dated 20.03.2014, which were executed by the petitioner in respect of the lands in Survey Nos. 64/A/2C, Kayathar Village, Thoothukudi District within the time stipulated by this Court.

For Petitioner : Mr.J.Parekhkumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 & R.2

Mr.H.Arumugam for R.3 & R.4

Mr.S.Packiya Muthu for R.5 & R.6

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a senior citizen. She is second wife of one Thiru.Paulraj. Thiru.Paulraj got married to the writ petitioner after the demise of his first wife. The petitioner did not beget any child. Through the first marriage Thiru.Paulraj had four children (respondents 3 to 6).

3.The writ petitioner had executed 4 deeds of settlement in favour of the respondents herein. The grievance of the writ petitioner is that the respondents are not taking care of her. Hence, she moved the Maintenance Tribunal for cancelling the settlement deeds. The Maintenance Tribunal while declining to



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cancel the settlement deeds directed the settlees to pay a sum of Rs.2,500/- (Rupees Two Thousand Five Hundred only) each to the writ petitioner per month. Aggrieved by the same, the writ petitioner filed an appeal before the first respondent. The first respondent did not interfere with the order passed by the Maintenance Tribunal. Challenging the same, the present writ petition is filed.

4.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned orders and grant relief as prayed for. I am not persuaded by the contentions advanced by the learned counsel for the writ petitioner. As rightly pointed out by the learned counsel appearing for the respondents, the issue is no longer *res integra*. The Hon'ble Apex Court vide order dated 06.12.2022 in Civil Appeal No.174 of 2021 (***Sudesh Chhikara Vs. Ramti Devi & another***) had held that unless a condition of looking after a senior citizen is incorporated in the document in question, the Maintenance Tribunal cannot invoke Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for cancelling the document in question. I called upon the learned counsel appearing for the petitioner to draw my attention to any such condition set out in the settlement deeds. My attention has not been drawn to any such condition. Applying the decision of



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the Hon'ble Apex Court, I sustain the orders impugned in the writ petition.

At this stage, the learned counsel appearing for the writ petitioner would allege that the private respondents are not taking care of the writ petitioner. This is controverted by the learned counsel appearing for the writ petitioner who assert that when maintenance amounts were sent by money order, the writ petitioner refused to receive the same.

5.I call upon the writ petitioner to act in terms of the order passed by the Maintenance Tribunal. The writ petitioner can very well open a bank account. The respondents will have to remit not only the maintenance amount from this month onwards but also the arrears. If the private respondents fails to do so, the petitioner is at liberty to proceed against the properties of the private respondents including the settled properties. The order of the Maintenance Tribunal is upheld in *toto*.

6.This writ petition is dismissed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.01.2023

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