



W.P(MD)No.19480 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.19480 of 2023 and
WMP(MD) No.16107 of 2023

Packialakshmi

... Petitioner

Vs

1.The Presiding Officer,
Maintenance and Welfare of Parents and
Senior Citizen Tribunal / Revenue
Divisional Officer,
O/o. Revenue Divisional Office,
Sivakasi,
Sivakasi Taluk,
Virudhunagar District.

2. Sundari

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned communication issued by the first respondent vide proceedings No.Na.Ka.No.A2/1274/2023 dated 26.04.2023 and 20.07.2023 and to quash the same as arbitrary and ultravires.



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For Petitioner : Mr.G.Mariappan
For R1 : Mr.M.Sarangan
Additional Government Pleader

ORDER

This writ petition is filed as against the notice issued by the first respondent calling upon the petitioner for an enquiry on the application filed by the petitioner's mother/the second respondent herein.

2.The case of the petitioner is that the second respondent, the mother of the petitioner has filed an application under Section 4 & 5 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 before the Revenue Divisional Officer, Presiding Officer, Special Tribunal, Sivakasi on 26.12.2022, seeking maintenance and also to cancel the Gift Deed executed by her in favour of the petitioner on 22.08.2007. On the basis of the above application, the petitioner was called for an enquiry by the notice impugned in this writ petition.



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3.The learned counsel appearing for the petitioner submits that there is no clause for imposing any condition on the petitioner in the Gift Deed and as per the dictum laid down by the Honourable Full Bench of this Court in the case of *Sasikala and others*, reported in *MLJ 2022 (7)*, the Gift Deed executed is irrevocable. In the absence of any specific condition, the first respondent is not having any right to conduct the enquiry.

4.This Court is not inclined to entertain this writ petition that it is premature stage and the complaint itself is filed under the provisions of 4 & 5 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007. For cancelling any document, a separate provision is available under Section 23 of the Act. However, the second respondent has not filed any application for such relief under the available provision. However in the prayer, a reference has been made to cancel the Gift Deed. It is the authority, the first respondent to take a call whether the case of the second respondent falls under



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the category of Sections 4, 5 & 23 of the said Act. In the event, if the any decision is taken by the respondent, the petitioner is also having an appeal remedy before the District Collector.

5.In view of the above, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to raise all his grounds before the first respondent. The first respondent shall dispose of the proceedings after considering the legal position as held by this Court in *Sasikala and others*, reported in MLJ 2022 (7). No costs. Consequently, connected Miscellaneous Petition is closed.

11.08.2023

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



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To
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The Presiding Officer,
Maintenance and Welfare of Parents and
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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.19480 of 2023 and
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