



W.P.(MD).No.21637 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21637 of 2021

and

W.M.P.(MD).Nos.18210 of 2021 and 2020 of 2022

S.Kaliyanasundaram

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Devakkottai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Mo.Mu.Aa1/11157/2018 dated 18.02.2020 passed by the second respondent and quash the same.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader.



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ORDER

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This Writ Petition is filed challenging the order dated 18.02.2020 passed by the second respondent.

2. The petitioner's mother submitted a petition before the District Collector alleging that the petitioner inspite of settlement deed executed in favour of his, is not taking care of the mother. The respondents by invoking the Senior Citizen Act, has passed the impugned order. Aggrieved over the same, the petitioner preferred an appeal before the first respondent. Pending appeal, the petitioner's mother died on 02.06.2021. The contention of the petitioner is that since the petitioner's mother dead, the first respondent cannot proceed further, hence the petitioner is before this Court.

3. The contention of the petitioner is that while executing the settlement deed, the petitioner's mother has not reserved the right to revoke the settlement. The relevant portion of the settlement deed is extracted hereunder:

“இந்த செட்டில்மெண்டு பத்திரத்தை நான் எக்காரணத்தைக் கொண்டும் ரத்து செய்யமாட்டேன் என்று உறுதி கூறுகிறேன்”

4. If the settlement deed is executed without any clause for revocation, then the said settlement cannot be revoked. In such circumstances, the



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authorities cannot invoke the section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The said issue is settled by the Hon'ble Full Bench in the case of *Sasikala Vs. Revenue Divisional Officer & another reported in 2022 (5) CTC 257*. The relevant portion is extracted hereunder:

“46. The writ petition in W.P(MD)No.6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The gift deed executed by the second respondent in favour of the writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. **The second respondent has specifically stated that he has no right to revoke the settlement deed.** From the recitals, the settlement does not attract Section 126 of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. In other words, the gift deed is not subject to any condition or terms that the transferor shall provide the basic amenities and basic physical needs to the second respondent. **In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under Section 23 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007.** Therefore, the order impugned is liable to be quashed....”

5. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.07.2023

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



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Sivagangai District,
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S.SRIMATHY, J.

Nsr

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