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W.P.No.2591 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2591 of 2022 and
WMP.Nos.2729 & 2730 of 2022

1.Mallika

2.Senthamilselvi

3.Malathi

...Petitioners

Vs.

1.The Revenue Divisional Officer
cum First Class Executive Magistrate,
Kallakurichi Revenue Division,
Kallakurichi Town and District

2.Pappathi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the first respondent in Pa.Mu.A6/707/2021 dated 10.01.2022 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioners : M/s.V.Srimathi



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For Respondents

For R1 : Mr.S.J.Mohammed Sathik,
Government Advocate

For R2 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 10.01.2022 thereby cancelled the settlement deed executed in favour of the first petitioner under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. Though notice was served, no one appeared on behalf of the second respondent before this Court either in person or through pleader.

3. The first petitioner is the daughter of the second respondent. The property comprised in survey No.35/1A1, Old survey No.35/1A situated at Puttai Madura Pavalam Village, Kallakurichi admeasuring 79 cents originally owned by the first petitioner's father and mother. The



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said property had devolved upon them vide partition registered vide document No.476 of 1995 by the first petitioner's grandfather. Thereafter, due to love and affection towards the first petitioner, the second respondent and her husband had executed settlement deed dated 10.03.2008 registered vide document No.971 of 2008 in favour of the first petitioner. After execution of settlement deed, on 26.06.2010 the father of the first petitioner died. After marriage, the first petitioner gave birth to the second and third petitioners and out of love and affection, the first petitioner had executed settlement deed in favour of the second and third petitioners on 24.03.2021 registered vide document No.1559 of 2021. Thereafter, that too after demise of the first petitioner's father, the second respondent made an application under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the first respondent to cancel the settlement deed executed in favour of the first petitioner, that too in the year 2021. It is also curious to note that when the said application was pending before the first respondent, the second respondent once again settled the very same property in favour of her son by the registered settlement deed dated



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09.12.2021 registered vide document No.6098 of 2021.

4. That apart, on perusal of the statement of the second respondent before the first respondent that after demise of her husband, the first petitioner failed to maintain the second respondent by without providing any food. Admittedly, the settlement deed was executed in the year 2008. Further, the second respondent is residing with her son. Only on the instigation of her son, the second respondent lodged complaint before the first respondent and also unilaterally made settlement deed in favour of her son on 09.12.2021 when the first settlement deed was in very much existence. Therefore, it is crystal clear that only on the instigation of the son of the second respondent, the second respondent lodged complaint under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the first respondent and she is residing with her son. Without considering the same, the first respondent mechanically cancelled the settlement deed which was executed in favour of the first petitioner.

5. In view of the above, the impugned order cannot be



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sustained and it is liable to be quashed. Accordingly, the impugned order dated 10.01.2022 of the first respondent is quashed and this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

06.06.2024
(2/2)

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok

The Revenue Divisional Officer
cum First Class Executive Magistrate,
Kallakurichi Revenue Division,
Kallakurichi Town and District



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G.K.ILANTHIRAIYAN, J.

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