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W.P.No.3321 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM:

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

W.P.No.3321 of 2024
and W.M.P.Nos.3576 & 3577 of 2024

M.K.Jeevanantham

.... Petitioner

Vs

1. The Presiding Officer/Sub -Collector,
The Tribunal for Maintenance and Welfare
of Parents and Senior Citizens,
Tiruvallur District.

2. S. Girija

3. Mangaiyarkarasi

4. Shamilath Jamaludeen,

(R4-Impleaded as per order

dated 06.06.2024 in WMP.No.13919

of 2024 in WP.No.3321 of 2024)

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for all records pertaining to the impugned order Mu. Mu. No 2200/2019/A1 dated 13.07.2022 on the file of the 1st respondent and quash the same.

For Petitioner	: Mr.T.V.Badrinarayanan
For R1	: Mr.P.Gurunathan Additional Government Pleader
For R2	: Mr.Ali Hassan Khan
For R3	: Mr.S.Sivakumar
For R4	: No appearance

ORDER



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This Writ Petition has been filed challenging the order passed by the first respondent dated 13.07.2022, thereby allowing the complaint lodged by the third respondent and setting aside the settlement deed executed in favour of the second respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The third respondent is the mother and the second respondent is the daughter. The third respondent owned a property comprised in S.No.394/2A admeasuring an extent of 36 cents situated at Paruthipattu Village, Avadi Taluk, Tiruvallur District. The second respondent, being her only daughter, the third respondent had executed a settlement deed dated 03.10.2013 registered vide document No.12090 of 2013. Pursuant to the settlement deed, the second respondent had entered into an agreement for sale with the petitioner dated 29.10.2015, thereby agreed to sell 30 cents out of 36 cents in favour of the petitioner. However, the second respondent, after receipt of the substantial portion of the sale consideration, failed to come forward to execute a sale deed.



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4. Therefore, the petitioner was constrained to file a suit for specific performance in O.S.No.72 of 2018 on the file of the II Additional District Court, Poonamallee. It was decreed in favour of the petitioner by a Judgment and Decree dated 14.12.2021. On the strength of the decree, the petitioner filed an Execution Petition in E.P.No.14 of 2022. Pending the execution petition, the second respondent filed an application in I.A.Nos.1 & 2 of 2022 to condone the delay in filing the petition to set aside the ex-parte decree in O.S.No.72 of 2018. In the meanwhile, the second respondent colluded with the third respondent, lodged a complaint under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to cancel the settlement deed executed in favour of the second respondent as null and void and the decree passed in O.S.No.72 of 2018.

5. On receipt of the said complaint, the first respondent conducted an enquiry. During the enquiry, the second respondent had no objection to cancel the settlement deed executed in her favour. In view of the above, the first respondent allowed the complaint lodged by the third respondent and cancelled the settlement deed executed in favour of the second respondent. Therefore, it is clear that the second and third



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respondents colluded together and lodged a complaint. The complaint was lodged by the third respondent and her husband. That apart, immediately after cancellation of the settlement deed, the third respondent had executed a sale deed in favour of the fourth respondent herein on 13.10.2022. It is sham and nominal since no sale consideration was passed on for the sale deed in favour of the third respondent. In fact, the cheque issued in favour of the third respondent by the fourth respondent was dishonoured.

6. Pending the writ petition, the third respondent died. The only legal heir available other than the second respondent is third respondent's husband. Pending the writ petition, the matter has been referred before Mediation. Though the petitioner, second and third respondents had come to an amicable settlement between them, due to execution of sale deed in favour of the fourth respondent amicable settlement would not be arrived at. Now, the second respondent is ready and willing to execute a sale deed in respect of the entire extent which was settled by the third respondent in favour of the fourth respondent on receipt of the entire sale consideration. The second respondent has also agreed to execute the sale deed along with her father and her husband.



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Without considering the above facts and circumstances, the first respondent mechanically allowed the complaint lodged by the third respondent and cancelled the settlement deed that too on the no objection entered by the second respondent. Therefore, the order passed by the first respondent cannot be sustained and it is liable to be quashed.

7. In view of the above, the order passed by the first respondent dated 13.07.2022, is hereby quashed. In pursuant to set aside the settlement deed, the sale deed executed by the third respondent in favour of the fourth respondent is also not valid one since it is sham and nominal and declared as null and void. The petitioner shall pay the remaining amount for the entire extent of the property, i.e. 36 cents, comprised in S.No.394/2A situated at Paruthipattu Village, Avadi Taluk, Tiruvallur District, within a period of six weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent and her father, viz., K.Ramu, and her husband shall execute a sale deed in respect of the property comprised in S.No.394/2A situated at Paruthipattu Village, Avadi Taluk, Tiruvallur District, in favour of the petitioner forthwith.



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8. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed.

No costs.

28.10.2024

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

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To

The Presiding Officer/Sub -Collector,
The Tribunal for Maintenance and Welfare
of Parents and Senior Citizens,
Tiruvallur District.

G.K.ILANTHIRAIYAN, J.

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