



WEB COPY



W.P.No.8899 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

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

W.P.No.8899 of 2020 and
WMP.No.10821 of 2020

R.Gowri

... Petitioner

Vs.

- 1.The Revenue Divisional Officer/
Tribunal for Maintenance and
Welfare of Parents and Senior Citizens,
Erode, Erode District
- 2.The Sub Registrar,
Sivagiri, Erode District
- 3.Chinnammal
- 4.K.Krishananth
- 5.Kulandaivel
- 6.P.Nataragan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the first respondent in his proceedings No.5876/2019/Aa2 dated 01.06.2020 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents

For R1 & 2 : Mr.S.J.Mohammed Sathik,
Government Advocate



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For R3 : Mr.M.Arun
for M/s.Karan and Uday

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 01.06.2020 thereby rejected the application filed by the third respondent under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act.

2. The third respondent had executed settlement deed in favour of the fourth respondent in respect of the property comprised in RS.No.1143/3 and 1146/1 situated at Sivagiri Village, Kodumudi, Erode District to an extent of 3.70 ½ acres in the year 2015. The fourth respondent is the grandson of the third respondent born through one of her son i.e. Kulandaivel. In turn, the fourth respondent had executed sale deed in favour of the petitioner in the year 2017 and 2019. Since from the date of purchase, the petitioner is in possession and enjoyment of the said property. In fact, she also mortgaged property with the Canara Bank and obtained loan for developing her land. While being so, the third respondent who is aged about 95 years with the instigation of



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respondents 5 and 6 filed complaint before the first respondent by invoking Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to cancel the settlement deed executed in favour of the fourth respondent without adding the petitioner as party to that proceedings. The first respondent conducted enquiry and passed order on 01.06.2020 thereby cancelled the settlement deed executed in favour of the fourth respondent dated 16.12.2015 vide document No.2663 of 2015 and also all subsequent documents including the sale deed executed in favour of the petitioner herein. Now the third respondent died and her other legal heirs are already parties in this writ petition and though notice was served on them i.e. respondents 5 & 6, no one appeared on behalf of them before this Court either in person or through pleader.

3. The learned counsel for the third respondent submitted that the other legal heirs are already parties in this writ petition and they have not engaged him to appear on their behalf.



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4. Admittedly, the petitioner was not a party to the proceedings initiated before the first respondent by the third respondent. In fact, after registering the sale deed in favour of the petitioner by the fourth respondent, on the instigation of respondents 5 & 6, the third respondent lodged complaint before the first respondent under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Even then, the petitioner was not impleaded as a party and she was not served with any notice by the first respondent. Behind her back, sale deed executed in her favour, is now being cancelled by the impugned order. Further, respondents 5 & 6 failed to come forward before this Court to deny the case of the petitioner. The petitioner is a bonafide purchaser and purchased the subject property for valid sale consideration from the fourth respondent. Therefore, the sale deed which was executed in favour of the petitioner cannot be cancelled on her back without her knowledge.

5. In view of the above, the impugned order cannot be sustained and the same is liable to be set aside. Accordingly, the impugned order dated 01.06.2020 of the first respondent is set aside and



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this writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.06.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Revenue Divisional Officer/
Tribunal for Maintenance and
Welfare of Parents and Senior Citizens,
Erode, Erode District
- 2.The Sub Registrar,
Sivagiri, Erode District

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