



WEB COPY



W.P.No.11869 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 11869 of 2024
and
W.M.P.Nos. 12961 & 12963 of 2024

M.Palani

.... Petitioner

Vs

1. The District Collector
O/o. of the District Collectorate,
Kancheepuram District.

2. The Revenue Divisional Officer
O/o.the Revenue Divisional Officer,
Sriperumbuthur, Kancheepuram,
Kancheepuram District.

3.The Sub Registrar
Office of the Sub Registrar,
Pammal, Chennai-600075,
Kancheepuram District.

4. M.Saroja

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari to call for the records related to the impugned proceedings bearing Na.Ka.No.4812/2023/A1 dated 23.01.2024 passed by the 2nd respondent herein, the Revenue Divisional



W.P.No.11869 of 2024

Officer, Sriperumbuthur under the Maintenance and Welfare of parents and Senior Citizens Act, 2007 and quash the same and pass.

For Petitioner : Mr.V.R.Appaswamee
For R1 to R3 : Mr.P.Gurunathan
Additional Government Pleader
For R4 : Mr.D.Ashok Kumar

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 23.01.2024, thereby allowing the complaint lodged by the fourth respondent under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act”) and thereby cancelled the Settlement Deed executed in favour of the fourth respondent dated 13.12.2001 vide document No.2941 of 2001.

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

3. The petitioner is the son of the fourth respondent. The fourth respondent inherited the property to an extent of 3 ¼ cents in



W.P.No.11869 of 2024

Kolapakkam Village, Chennai, by way of partition entered among her brothers and sisters. Further, the fourth respondent had purchased another share from her brother, which is situated in the adjacent land. Thereafter, the fourth respondent had executed a settlement deed dated 12.12.2001 in favour of the petitioner to an extent of 1414 sq.ft comprised in Survey No.224 of Kolapakkam Village vide document No.2941 of 2001. Thereafter, the fourth respondent had executed another settlement deed dated 28.05.2004 in favour of the petitioner in respect of the property comprised in Survey No.279 of Gerugambakkam Village to an extent of 3255 sq.ft. vide document No.2020 of 2004. In order to meet out the family expenses, the petitioner had sold out the said property and had spent the money for the marriage of her younger brother and younger sister in the year 2011. Therefore, the fourth respondent owned the remaining property to an extent of 1414 sq.ft with house and she resides there with her younger brother. She also had rented out the said portion and is receiving a sum of Rs.3,500/- per month as rent. While being so, the fourth respondent filed a complaint under Section 23 of the Act before the second respondent alleging several allegations as against the petitioner. The second respondent conducted



W.P.No.11869 of 2024

WEB COPY

an enquiry and allowed the complaint and thereby cancelled the settlement deed executed in favour of the petitioner.

4. The learned counsel appearing for the petitioner raised only one ground that the settlement deed had been executed before the commencement of the Act. As per Section 23 of the Act, there are two essential pre-conditions, i.e., the document should have been executed after the coming into force of the Act and it should contain a clause imposing an obligation on the settlee or transferee to maintain the settlor or transferor.

5. A perusal of the records reveals that the fourth respondent had executed a settlement deed in favour of the petitioner, which is sought to be cancelled by the complaint under Section 23 of the Act, vide document No.2941 of 2001 dated 13.12.2001. That is prior to the commencement of the Act. Further, the fourth respondent, being the mother of the petitioner, the petitioner is duty to bound to maintain his own mother. Though the petitioner technically succeeds in this writ petition, he is bound to maintain his own mother till her life time.



W.P.No.11869 of 2024

WEB COPY

Therefore, the order passed by the second respondent cannot be sustained and is liable to be quashed.

6. Considering the facts and circumstances of the case, the order passed by the second respondent is hereby quashed on condition that the petitioner shall pay a sum of Rs.5,000/- as monthly maintenance in favour of the fourth respondent, by way of deposit to the credit of the fourth respondent's bank account, till her life time.

7. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

08.08.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
Lpp

To

1. The District Collector
O/o. of the District Collectorate,
Kancheepuram District.



WEB COPY



W.P.No.11869 of 2024

G.K.ILANTHIRAIYAN, J.

Lpp

2. The Revenue Divisional Officer
O/o.the Revenue Divisional Officer,
Sriperumbuthur, Kancheepuram,
Kancheepuram District.

3.The Sub Registrar
Office of the Sub Registrar,
Pammal, Chennai-600075,
Kancheepuram District.

W.P.No.11869 of 2024

08.08.2024