



WEB COPY



W.P.No.14579 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM:

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

W.P.No.14579 of 2022 and
WMP.No.13779 of 2022

P.Saroja

.... Petitioner

Vs.

- 1.The Maintenance and Welfare of Parents and Senior Citizen Tribunal,
Revenue Divisional Officer, (Coimbatore South),
Coimbatore
 - 2.The Sub-Registrar,
Vadavalli,
Coimbatore
 - 3.The Thasildar,
Perur Taluk, Perur,
Coimbatore
 - 4.R.Marudhachalam(deceased)
 - 5.Yasotha Marudhachalam
 - 6.Revathy Ramasamy
 - 7.Sasikal Padmanbhan
 - 8.M.Kiruthika
- (respondents 5 to 8 substituted as LR's of R4 as per
order dated 07.11.2023 in WMP.No.18250/2023 in
WP.No.14579 of 2022)
- Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India
for the issuance of Writ of Certiorari calling for the records of the first



W.P.No.14579 of 2022

respondent made in Pa.Mu.4818/2021/A1 dated 22.04.2022 and quash the same.

For Petitioner : M/s.P.Saravana Sowmiyan

For Respondents

For R1 to 3 : Mr.P.Gurunathan,
Additional Government Pleader

For R4 : Mr.N.Manoharan

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 22.04.2022 thereby allowed the complaint filed by the fourth respondent under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and cancelled the settlement deed dated 11.11.2010 executed in favour of the petitioner's husband.

2. While pending writ petition, the fourth respondent died and his legal representatives have been substituted as respondents 5 to 8 herein.



W.P.No.14579 of 2022

WEB COPY

3. The case of the petitioner is that the deceased fourth respondent is the brother of the petitioner's husband. The petitioner's husband and his brothers inherited 57 ½ cents of land each and one brother inherited 61 ½ cents of land comprised in SF.No.76/1 situated at Vadavalli Village, Coimbatore. The petitioner's husband along with his brother Aruchamy had entered into a joint venture agreement in order to develop their shares. Though the deceased fourth respondent did not join in the joint venture, he executed settlement deed in favour of the petitioner's husband on 11.11.2010 registered vide document No.6128 of 2010 on receipt of the value of the said property. On the same day, both had entered into consent cum undertaking deed dated 01.12.2010. Accordingly, the fourth respondent had received a sum of Rs.15,00,000/- from the petitioner's husband and agreed to receive 7.5% profit out of 15% towards joint venture agreement within a period of five years. It was further agreed by the fourth respondent that if he is willing to take apartments instead of 7 ½ % as profit, the same will be done by deducting the amount of Rs.15,00,000/- which was already paid. On the



W.P.No.14579 of 2022

request made by the fourth respondent, an additional sum of Rs.20,00,000/- was paid by the petitioner's husband through his son's account on 22.04.2019. Therefore, the deceased fourth respondent was paid totally Rs.35,00,000/- towards consideration of his share which was settled in favour of the petitioner's husband. In fact, it was categorically admitted by the fourth respondent during the enquiry conducted by the first respondent.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. It is seen that after demise of the petitioner's husband, the fourth respondent filed complaint under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Though the deceased fourth respondent was a senior citizen at the time of filing the complaint, it cannot be maintainable as against the petitioner herein. It is relevant to extract the provision under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 hereunder:



W.P.No.14579 of 2022

23. Transfer of property to be void in certain circumstances -?

(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.



W.P.No.14579 of 2022

WEB COPY

6. The petitioner is none other than his sister in law and therefore the complaint is not at all maintainable under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. In fact, respondents 5 to 8 are his legal heirs and are very much alive. If at all the fourth respondent was not maintained by his wife and children, he can lodge complaint as against them. Instead, the fourth respondent lodged complaint as against the petitioner, that too after demise of her husband, to cancel the settlement deed executed in favour of the petitioner's husband. Therefore, the complaint itself is not maintainable under Section Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

7. That apart, on perusal of the statement of the deceased fourth respondent, revealed that he categorically admitted about the consideration paid by the petitioner's husband and he owned property comprised in survey no.591/1 and 600/2 to an extent of 1.17 acres situated at Kasthurinaickenpalayam and Somayampalayam, Coimbatore District. Further, it is not the case of the deceased fourth respondent that



W.P.No.14579 of 2022

the petitioner's husband obtained settlement deed by fraud or coercion and under undue influence.

8. In view of the above, the impugned order cannot be sustained and the same is liable to be quashed. Accordingly, the impugned order passed by the first respondent dated 22.04.2022 is quashed and this writ petition is allowed. However, respondents 5 to 8 are at liberty to approach civil court for appropriate relief in accordance with law. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

17.10.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
lok

To

- 1.The Maintenance and Welfare of Parents and Senior Citizen Tribunal,
Revenue Divisional Officer, (Coimbatore South),
Coimbatore
- 2.The Sub-Registrar,
Vadavalli,



W.P.No.14579 of 2022

Coimbatore
3.The Thasildar,
Perur Taluk, Perur,
Coimbatore

G.K.ILANTHIRAIYAN, J.

lok

W.P.No.14579 of 2022



WEB COPY



W.P.No.14579 of 2022

17.10.2024