



W.A.Nos. 1592 & 1593 of 2

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos. 1592 & 1593 of 2024

and

C.M.P.No. 11110 of 2024

W.A.No.1592 of 2024

Thirunavukarasu

...Appellant

Vs.

1.R.Elaiyammal

2.The District Collector,
Office of the District Collectorate,
Tiruchengode Road,
Namakkal - 637 003.

3.The Revenue Divisional Officer-cum-
Sub-Divisional Magistrate,
(The Maintenance and welfare of parents and
Senior citizens act - Tribunal),
Tiruchengode, Namakkal District.

4.The Revenue Tahsildar,
Paramathy Velur Taluk,
Namakkal District.

...Respondents



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W.A.Nos. 1592 & 1593 of 2



W.A.No. 1593 of 2024

Thirunavukarasu

...Appellant

Vs.

1.R.Elaiyammal

2.The District Registration (Administration),
Collectorate Campus Back Side,
Nallipalayam, Namakkal.

...Respondents

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 03.04.2024 made in W.P.Nos.15270 & 15864 of 2023.

For Appellant : Mr.S.Ramesh for Mr.M.Guruprasad
in both the appeals

For Respondents : Mr.Ma.P.Thangavel for R1 in both appeals
Mr.A.Selvendran
Special Government Pleader for R2 to R4
in W.A.No. 1592 of 2024
Mr.Vadivelu Deenadayalan
Additional Govt. Pleader for R2 in
W.A.No.1593 of 2024
Mrs.R.Elaiyammal - appeared in VC



J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

This appeal is by the 4th respondent in W.P.No.15270 of 2023. This is an unfortunate litigation where, the mother of the 4th respondent who is about 84 years old now has been made pawn by her children who are fighting over the property.

2. The 1st respondent in the appeal, Elaiyammal, wife of Ramasamy Gounder had made an application to the District Collector for cancellation of the Patta that was granted in favour of the appellant herein. The same was forwarded to the Revenue Divisional Officer, Namakkal to be dealt with under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The 3rd respondent / Revenue Divisional Officer, Namakkal passed an order on 02.05.2023, rejecting the application on the ground it does not fall within the scope of enactment. She however, granted a monthly maintenance of Rs.9,500/- to be paid by the appellant to the 1st respondent. Aggrieved by this order, the mother / 1st respondent filed W.P.No.15270 of 2023 in this Court. The learned single Judge had allowed the Writ Petition with a direction to cancel the Patta that was issued to the appellant herein. Aggrieved, the appellant is on appeal.

3/8



3. It is the contention of the appellant that there was a family arrangement even during the life time of the father, in and by which, the properties were allotted to him. We are relieved of the obligation to go into those questions, in view of the subsequent developments. When this appeal was taken up by the co-ordinate Bench of this Court, it was represented that the 1st respondent had voluntarily come forward and agreed to stay with the appellant and the appellant has agreed to take care of her maintenance and other expenses for her life time. However, the learned counsel who appeared for the 1st respondent had submitted that he had not received any instructions from her and he had also expressed a suspicion as to the statement made by the learned counsel for the appellant. It was also submitted that the statement has been obtained by force. It is also brought to our notice that the 1st respondent by her letter dated 25.10.2024 addressed to her counsel had required the said counsel not to appear for her in the proceedings.

4. In view of the above, this Court by order dated 24.10.2024 had appointed an advocate as Commissioner to enquire the 1st respondent and



get a statement from her. Pursuant to the same, the Commissioner had visited the 1st respondent at her residence and had interacted with her.

Apart from the report, the Commissioner has also filed a statement given by the 1st respondent. The 1st respondent had in the statement very clearly stated that she had not instructed the counsel to file any case. She had also answered in negative when the complaint by her was read over to her in order to ascertain whether she had lodged that complaint. The letter dated 25.10.2024 addressed to the counsel very clearly blames the son-in-law for conduct of these proceedings.

5. As of today, the 1st respondent has now stated that she is not interested in prosecuting the matter further and she has also instructed her counsel not to appear before this Court in this appeal. The complaint was one for cancellation of patta. It is the claim of the appellant that under a family arrangement, the property was allotted to him. We also find that the appellant himself has instituted a suit along with his wife and children in O.S.No.111 of 2024 seeking declaration of his right over the suit properties and for an injunction. The said suit stated to be pending.



6. Whether there was family arrangement and whether it was acted upon are all question which will have to be decided in the suit. Those questions cannot be decided in a proceeding under Article 226 of the Constitution of India. The purpose of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is completely different. It is only to ensure that the parents from whom the children had derived properties are maintained by the children. The power of cancellation is vested in the Officials only in respect of documents that were executed subsequent to the coming into force of the Act.

7. In the case on hand, it is the plea of the appellant that the family arrangement was of the year 2006 and transfer of patta was effected in his name pursuant to the said family arrangement in the year 2007. Therefore, the entire controversy is beyond the jurisdiction of the authorities under the Act. Hence, we are unable to sustain the findings of the learned single Judge, where he ordered cancellation of Patta.

8. Therefore, both these appeals are **allowed**. The order of the learned single Judge is set aside and the order of the Authority will stand



W.A.Nos. 1592 & 1593 of 2

restored. The parties in this appeal will bear their own costs. Consequently, connected miscellaneous petition is closed. We direct the appellant to pay a further sum of Rs.30,000/- as additional remuneration to the Commissioner.

(R.S.M., J.) (C.K., J.)
21.12.2024

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Index: No
Speaking order
Neutral Citation : No

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7/8



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