



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.15584 of 2023
and W.M.P.Nos.15087 & 15088 of 2023

K.Kandhasamy

.. Petitioner

Vs.

1.The District Collector/Appellate Tribunal for Senior Citizen
Maintenance & Welfare,
Namakkal District.

2.The Revenue Divisional Officer/Tribunal for Senior Citizen
Maintenance & Welfare,
Namakkal District.

3.The Sub Registrar,
Rasipuram,
Namakkal District.

4.K.Manivel

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in No. Pa. Mu. 7274 / 2021 / A1, dated 25.07.2022 and confirmed by the 1st respondent in Na. Ka. No. 2134 / Pe.Pa.Sa. /



2022 dated 26.03.2023 and quash the same and further issue a direction directing the 1st respondent to cancel the settlement deed 5493/2018 dated 24.12.2018 duly registered before 3rd respondent i.e., the Sub Registrar, Rasipuram and carry out entries in the register maintained by them the same within the time limit that may be stipulated by this Court.

For Petitioner .. Mr.P.Ganesan

For Respondents .. Mr.M.R.Gokul Krishnan
Additional Government Pleader
for R1 to R3

Mr.S.Arivazhagan for R4

ORDER

This writ petition has been filed by a senior citizen in the nature of certiorari calling for the records of an order passed by the 2nd respondent, the Revenue Divisional Officer/Tribunal for Senior Citizen Maintenance & Welfare at Namakkal District dated 25.07.2022 and confirmed by the 1st respondent, District Collector/Appellate Tribunal for Senior Citizen Maintenance & Welfare at Namakkal District, dated 26.03.2023 and quash both the orders.



2.The petitioner herein had given a representation before the 2nd respondent seeking cancellation of the Settlement Deed registered as Document No.5493/2018 dated 24.12.2018 registered in the office of the Sub Registrar, Rasipuram. That particular Settlement Deed had been executed by the petitioner in favour of the 4th respondent, his own son.

3.The Settlement Deed was with respect to the property of seven items of vacant land at Athanur Village, Rasipuram in Namakkal District. The details had been given in the Settlement Deed. Complaining that, after the execution of the Settlement Deed, the 4th respondent had not taken care of the petitioner herein, the petitioner had given a representation to the 2nd respondent seeking cancellation of the document.

4.In the meanwhile, one of the sons of the petitioner and his daughter had jointly filed O.S.No.44 of 2020 before the District Court at Namakkal seeking partition of the said property into four equal shares. The representation given by the petitioner to the 2nd respondent was rejected primarily on the ground that the partition suit was pending. Independently, the 1st respondent who was the appellate authority had also confirmed the order of the 2nd respondent. But both the 2nd



respondent & 1st respondent must understand that they are functioning as Tribunal for Senior Citizen Maintenance & Welfare created under a specific statute viz., the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

5.The object is to examine whether the senior citizen has been maintained or not maintained or had been deserted by those who have an obligation to maintain the senior citizen. The provisions of the Act are distinct and provides a welfare method for the maintenance of the senior citizens. The respondents cannot take shield behind the institution of a suit. Even if a suit is filed and even if there is a partition of the property, the petitioner herein can maintain that to the extent of land which had been allotted to the 4th respondent, the Act would apply and the Settlement Deed could be cancelled to that particular extent.

6.In view of that particular fact, I would set aside the order of both 1st and 2nd respondent and remit the matter back to the 2nd respondent, Revenue Divisional Officer/Tribunal for Senior Citizen Maintenance & Welfare at Namakkal for fresh consideration in the manner known to law. The said authority may issue notice to the petitioner and also to the 4th respondent and also incidentally to the other two children of the petitioner viz., his son and daughter and enquire with them and



thereafter take a considered decision in accordance with the provisions of the said Act. Necessary orders may be passed, within a period of four months from the date on which all the parties actually appear in response to the notice issued by the 2nd respondent.

7.This writ petition stands disposed of with the above directions. No Costs.
Consequently, connected miscellaneous petitions are closed.

12.12.2024

Index:Yes/No
Internet:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No
ssr

To

- 1.The District Collector/Appellate Tribunal for Senior Citizen
Maintenance & Welfare,
Namakkal District.
- 2.The Revenue Divisional Officer/Tribunal for Senior Citizen
Maintenance & Welfare,
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- 3.The Sub Registrar,
Rasipuram,
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C.V.KARTHIKEYAN,J.

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