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W.P.No.18123 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM:

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

W.P.No.18123 of 2024
and W.M.P.Nos.19910 & 19912 of 2024

R.Dinesh Raj

...Petitioner

-Vs-

1. The District Collector cum
District Executive Magistrate,
Coimbatore District.
2. The Revenue Divisional Officer cum
Divisional Executive Magistrate,
Coimbatore District.
3. P.P.Ramasamy
4. Gayathri Devi
5. A.Yuvaraj

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus, to call for the records of the impugned order of the second respondent vide Na.Ka.No.7529/2022/A1 dated 27.07.2023 and quash the same.



W.P.No.18123 of 2024

For Petitioner : Mr.C.Iyyapparaj
For Respondents
For R1 & R2 : Mr.P.Gurunathan
Additional Government Pleader
For R3 to R5 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 27.07.2023 thereby cancelled the settlement deed executed by the third respondent in favour of the fourth respondent.

2. The third respondent is the father of the fourth respondent. The third respondent owned property comprised in Ka.Sa.No.734/1 to an extent of 86 cents and Ka.Sa.No.734/3 to an extent of 14 cents in total 1.00 acre situated at Kuppanur Village, Annur Taluk, Coimbatore District. The fourth respondent is being his daughter and due to love and affection, the third respondent had executed settlement deed on 08.07.2009 registered vide document No.3366 of 2009. Thereafter, the fourth respondent had sold out the subject property in favour of the fifth respondent herein, by the sale deed dated 23.02.2022 registered vide document No.2295 of 2022. In turn, the fifth respondent had executed



W.P.No.18123 of 2024

sale deed in favour of the petitioner by the sale deed dated 31.03.2023 registered vide document No.4630 of 2024.

3. While being so, the third respondent lodged compliant before the first respondent under Section 23 of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act”) on the ground that the fourth respondent failed to maintain the third respondent and as such, the third respondent could not able to maintain himself and he is struggling for his day-to-day livelihood including medical expenses due to age ailments. On receipt of the said complaint, the second respondent issued notice to the fourth respondent and passed order dated 27.07.2023, thereby cancelled the settlement deed executed by the third respondent in favour of the fourth respondent.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court. Though notice served on the respondents 3 to 5 herein and their name also printed in the cause list, no one is appeared before this Court either in person nor through pleader.



W.P.No.18123 of 2024

WEB COPY

5. The petitioner is the subsequent purchaser from the fifth respondent. In fact, the fifth respondent had purchased the property from the fourth respondent. Originally, the settlement deed executed in favour of the fourth respondent by the third respondent. The third respondent having been kept quiet for more than 14 years, after execution of sale deed in favour of the fifth respondent, he lodged complaint under Section 23 of the Act, that too on the ground that the fourth respondent failed to maintain him.

6. That apart, in the enquiry conducted by the second respondent, the fourth respondent made statement that she had no objection to cancel the settlement deed dated 08.07.2009, that too after execution of sale deed in respect of the very same property in favour of the fifth respondent. The fourth respondent had executed sale deed on 23.02.2022, registered vide document No.2295 of 2022. It shows that the complaint itself lodged by the third respondent with collusion of the fourth respondent. The fourth respondent after having been executed sale deed in favour of the fifth respondent, she had no objection to cancel the



W.P.No.18123 of 2024

settlement deed executed in her favour, by the third respondent. Further, the settlement deed has been now cancelled behind the back of the fifth respondent and the petitioner herein.

7. In view of the above, the order passed by the second respondent cannot be sustained and liable to be quashed. Accordingly, the impugned order dated 27.07.2023, passed by the second respondent is hereby quashed. The matter is remanded back to the second respondent for fresh enquiry. The second respondent is directed to issue notice to the petitioner and the respondents 3 to 5 herein and after giving them an opportunity of hearing, pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.

8. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

17.10.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
rts



WEB COPY



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G.K.ILANTHIRAIYAN. J.

rts

To

1. The District Collector cum
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