



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-01-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

**WP No.17476 of 2020
And
WMP No.21663 of 2020**

Padmavathy

.. Petitioner

-VS-

- 1.Union of India,
Represented by its Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Goubert Salai,
Puducherry.
- 2.The Presiding Officer-cum-Sub Collector
Revenue (South),
Tribunal II for Maintenance of Parents and Senior
Citizens Act, 2007,
Revenue Complex,
Villinaur,
Puducherry.



3.Thayarammal

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Declaration, declaring the proceedings in MWPSCA No.12/2020/2308 dated 12.10.2020 pending on the file of the second respondent is unconstitutional, ultra vires and non-est in the eye of law.

For Petitioner : Ms.R.Renuka Devi for
Mr.P.Malaravan

For Respondents-1 and 2: Mr.A.Tamilvanan,
Additional Government Pleader
(Puducherry).

For Respondent-3 : Mr.E.Anbarasan

ORDER

The notice issued by the second respondent-Presiding Officer-cum-Sub Collector under the provisions of the Maintenance and Welfare of Parents Senior Citizens Act, 2007, is under challenge in the present writ proceedings.

2. It is not in dispute that the third respondent, who is the mother of the writ petitioner, executed a Settlement Deed in favour of the



petitioner on 09.10.2008. The third respondent filed complaint before the Competent Authority under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, on the ground that the petitioner failed to maintain the third respondent-mother and the Settlement Deed was executed with promise that the petitioner will maintain the third respondent-mother. Since the petitioner violated the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Authorities entertained the complaint and issued notice to the writ petitioner to participate in the process of enquiry to be conducted. The present writ petition came to be filed challenging the very notice issued by the second respondent- Presiding Officer-cum-Sub Collector under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

3. The writ petition against an enquiry notice is not maintainable unless such notice has been issued by an Incompetent Authority having no jurisdiction or tainted with the allegation of mala fides.

4. In the present case, the learned counsel for the petitioner states that the Settlement Deed was registered prior to the year 2011. When



the Rules were framed, it is irrelevant whether the Settlement Deed was registered in the year 2008 or thereafter. The Act came into force in the year 2007 and more-so, the complaint filed by the third respondent is entertainable and rightly registered by the Competent Authority. Thus, the petitioner has to participate in the process of enquiry. The second respondent-Presiding Officer-cum-Sub Collector, considering the fact that the third respondent-mother is a Senior Citizen, is directed to proceed with the enquiry by affording opportunity to all the parties concerned and conclude the same and pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

08-01-2024

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



To

1. The Chief Secretary,
Union of India,
Government of Puducherry,
Chief Secretariat,
Goubert Salai,
Puducherry.
2. The Presiding Officer-cum-Sub Collector
Revenue (South),
Tribunal II for Maintenance of Parents and Senior
Citizens Act, 2007,
Revenue Complex,
Villinaur,
Puducherry.



WEB COPY

WP No.17476 of 2



S.M.SUBRAMANIAM, J.

Svn

WP 17476 of 2020

08-01-2024