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W.P.No.411 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.411 of 2021 and
W.M.P.No.494 of 2021

1. Panchayammal
2. Raju

... Petitioners

Vs.

1. The Sub Divisional Magistrate/Revenue Divisional Officer,
(Tribunal for Maintenance and Welfare of Parents and Senior Citizens),
Salem.
2. The Joint Sub Registrar No.I,
Salem East, Salem.
3. Sadayan @ Peruma Gounder

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari calling for the records with respect of the impugned order passed by the first respondent in his proceedings dated 16.11.2020 in Na.Ka.No.1491/2020/A3 and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondents 1 & 2 : Mr.S.J.Mohammed Sathik
Government Advocate

For Respondent 3 : Mr.S.T.Bharath Gowtham



W.P.No.411 of 2021

ORDER

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This writ petition has been filed challenging the order passed by the first respondent dated 16.11.2020 thereby to cancel the settlement deed executed by the third respondent in favour of the petitioners and others.

2. The first petitioner is wife of the 3rd respondent and the 2nd petitioner is son of the first petitioner and the 3rd respondent herein. The first petitioner and the 3rd respondent gave birth to four sons and two daughters. In the year 2010, the 3rd respondent had executed six settlement deeds in favour of his sons and daughters. One of his son left the house, and as such the 3rd respondent executed a settlement deed in favour of the first petitioner herein. While being so, now the first petitioner died and the other legal heirs failed to substitute on behalf of the first petitioner. The second petitioner is one of the son and he is alone representing on behalf of the deceased first petitioner. While being so, at the age of 95 years old, the 3rd respondent was driven out to the street by his sons and he has also sustained fracture in his legs and he is bed-ridden. Even then, the petitioners failed to maintain the 3rd respondent and not even provide any medical facility to him. Now, the 3rd respondent is with his two sons namely Jayavelu and Venkatachalam. They are only taking care of the 3rd respondent. Based on the undertaking given by the 2nd



W.P.No.411 of 2021

petitioner, the 3rd respondent had executed settlement deed in his favour.

Therefore, the 3rd respondent had executed the entire properties and no properties stands in the name of the 3rd respondent. Hence, the 3rd respondent filed a complaint under section 21 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the first respondent. After recording evidence from all the sons and daughters along with the petitioners the first respondent allowed the complaint and cancelled the settlement deeds executed by the third respondent and also subsequent sale deeds executed by the settlors in favour of the third parties. One of the purchaser, Kavitha by registered sale deed dated 30.09.2020 vide document No.4045 of 2020 approached this Court by filing writ petition in W.P.No.1088 of 2021 and challenging the order passed by the first respondent on the ground that she was not given any notice and opportunity of hearing. This Court by an order dated 16.04.2024 set aside the order passed by the first respondent, insofar as the execution of settlement deed in favour of one Jayavel and the subsequent sale deed in favour of Kavitha dated 30.09.2020 vide document No.4045 of 2020 alone and remanded back to first respondent for fresh disposal after giving opportunity of hearing to the purchaser. Insofar as the petitioners are concerned, admittedly, they failed to maintain the 3rd respondent as per the undertakings given by them at the time of execution of settlement deed in their favour vide Document No.1618 of 2010.



W.P.No.411 of 2021

WEB COPY

3. In view of the above, this court cannot find any infirmity or illegality in the order passed by first respondent dated 16.11.2020, insofar as the settlement deed cancelled which were executed in favour of the petitioners by the third respondent. Accordingly, this writ petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

05.06.2024
(1/2)

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
gvn

To

1. The Sub Divisional Magistrate/Revenue Divisional Officer,
(Tribunal for Maintenance and Welfare of Parents and Senior Citizens),
Salem.



W.P.No.411 of 2021

2. The Joint Sub Registrar No.I,
Salem East, Salem.

G.K.ILANTHIRAIYAN, J.
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WEB COPY



W.P.No.411 of 2021

W.P.No.411 of 2021

05.06.2024
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