



W.P(MD)No.1891 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.11.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.1891 of 2022
and
W.M.P(MD)No.1629 of 2022

Anitha

... Petitioner

Vs.

- 1.The Appellate Authority under
the Maintenance and Welfare of
Parents and Senior Citizens
Tribunal / The District Collector,
Virudhunagar District.
- 2.The Authority Officer under
the Maintenance and Welfare of
Parents and Senior Citizens
Tribunal / The District Revenue Officer,
Sivakasi.
- 3.Vincent @ Jeganathan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari, to call for the records of
the impugned order passed by the first respondent dated 27.12.2021



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bearing Na.Ka.C4/17721/2021 and the order passed by the second respondent dated 12.06.2020 bearing Muu.Mu.A2/828/2020 and quash the same.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.D.S.Neduncheliyan
Government Advocate
for R.1 & R.2

Mr.R.Niresh Kumar for R.3

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 27.12.2021 bearing Na.Ka.C4/17721/2021 and the order passed by the second respondent dated 12.06.2020 bearing Muu.Mu.A2/828/2020.

2.Heard the learned counsel on either side and carefully perused the entire materials available on record.

3.The petitioner is the daughter-in-law of the third respondent and wife of the third respondent's son, namely, Natarajan who died five years back. The third respondent had executed a registered gift deed in favour



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of his deceased son on 04.02.2004 with respect to his dwelling house.

The petitioner's husband was working as a teacher in Rajapalayam during his life time. Due to kidney failure, the petitioner's husband passed away on 28.02.2015. The third respondent had moved a petition before the second respondent under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 on 05.02.2020 alleging that the petitioner failed to maintain him. On 12.06.2020, the second respondent passed the impugned order directing the petitioner to pay an amount of Rs.10,000/- as monthly maintenance to the third respondent, leaving open the question of cancellation of the settlement deed executed by the third respondent in favour of the petitioner's husband. As against the aforesaid order, the petitioner preferred an appeal before the first respondent and the impugned order dated 17.08.2020 came to be passed rejecting the petitioner's claim and cancelling the settlement deed bearing Document No.408/2004 dated 04.02.2004. Challenging the same, this Writ Petition came to be filed.

4.The learned counsel appearing for the petitioner submitted that the petitioner herself is a widow who is struggling to maintain herself



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and children. However, without considering the same, the first respondent had passed the impugned order directing her to pay an amount of Rs.10,000/- per month as maintenance. That apart, the third respondent is also receiving an amount of Rs.3,000/- as old age pension and has let a portion of the house for rent for an amount of Rs.5,000/- per month. Further, the learned counsel vehemently submitted that Maintenance and Welfare of Parents and Senior Citizen Act, 2007 has only prospective effect and the first respondent ought not to have invoked the powers under Section 23(1) of the Act for cancelling the deed which was executed as early as in the year 2004.

5.The learned Government Advocate fairly conceded that the Act has prospective effect.

6.In view of the same, without interfering with the order directing the petitioner to pay an amount of Rs.10,000/- as maintenance to the third respondent, this Court hereby set aside the order cancelling the settlement deed executed by the third respondent in favour of his son Natarajan in Document No. 408/2004 dated 04.02.2004 considering the



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fact that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came to be implemented in the State of Tamil Nadu only with effect from 29.09.2008.

7. Accordingly, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

1. The Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Tribunal / The District Collector, Virudhunagar District.
2. The Authority Officer under the Maintenance and Welfare of Parents and Senior Citizens Tribunal / The District Revenue Officer, Sivakasi.



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L.VICTORIA GOWRI, J.

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