



W.P(MD)No.4271 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4272 of 2024

and

W.M.P.(MD)Nos.4103 & 4104 of 2024

Kaleeshwari

... Petitioner

Vs.

1.The District Collector,
The Office of the District Collector,
Sivagangai.

2.The Maintenance Tribunal President and
The Revenue Divisional Officer,
Revenue Divisional Office,
Devakottai.

3.Regunathan

... 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 impugned proceedings of the District Collector, Sivagangai in Mu.Mu.Pi 1/31384/2021 dated 27.04.2022 confirming the order of the Maintenance Tribunal President and Revenue Divisional officer, Devakottai in Mu.Mu.Aa1/2673/2021 dated 05.10.2021 and quash the same.

For Petitioner : Mr.N.Dilipkumar

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 & R2



W.P(MD)No.4271 of 2024

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for R1 & R2.

2. The petitioner is the mother of the 3rd respondent. The petitioner moved the maintenance tribunal for cancelling the settlement deed dated 02.07.2009 executed in favour of the third respondent. The application was dismissed on 05.10.2021. Aggrieved by the same, the appeal was filed before the District Collector, Sivagangai. The appellate authority vide order dated 24.07.2022 confirmed the order of the tribunal and dismissed the appeal. Challenging the same, this writ petition came to be filed.

3. After hearing, the learned counsel for the petitioner and the learned Special Government Pleader, I am satisfied that the impugned orders declining to cancel the settlement deed do not warrant interference. This is for the simple reason that the document executed by the petitioner does not contain any condition as envisaged by Section 23 of the Senior Citizens Act. The Hon'ble Supreme Court in ***Sudesh Chhikara Vs. Ramti Devi and Another (2022 Live Law (SC) 1011***) had held that if there is no condition as mentioned above in the settlement deed, the Tribunal will not have jurisdiction to set aside the same.



W.P(MD)No.4271 of 2024

Therefore, the orders impugned in the writ petition are sustained.

WEB COPY

4. The learned counsel appearing for the petitioner took exception to the findings given in the order dated 05.10.2021 that the petitioner is possessed of sufficient means to maintain herself. The petition was filed under Section 23 of the Senior Citizens Act and therefore, in an order disposing of such an application, such findings need not have been given. In any event, the orders were passed in the month of October 2021. We are now in February 2024. The petitioner's husband was a government servant. The petitioner is obviously getting pension. If the petitioner is able to establish before the Tribunal that considering her current medical needs and other circumstances, the amount is not sufficient and she requires some more amount to maintain herself, it is always open to the petitioner to make such a prayer. But no purpose will be served in issuing notice in this writ petition. This is because the petition was filed by the petitioner only under Section 23 of the Act and not under Section 5 of the Act. The petitioner is given liberty to file a petition under Section 5 of the Senior Citizens Act before the second respondent. As and when it is filed, it shall be numbered immediately and notice shall be ordered to the third respondent. The tribunal will dispose of the matter on merits and in accordance with within a period of two months thereafter. The findings set out in the



W.P(MD)No.4271 of 2024

impugned order will not come in the way of giving a disposal to the fresh maintenance petition to be filed by the petitioner herein.

5. With this liberty to the petitioner and direction to the second respondent, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Index : Yes / No
Internet : Yes/ No
rmi

To

- 1.The District Collector,
The Office of the District Collector,
Sivagangai.
- 2.The Maintenance Tribunal President and
The Revenue Divisional Officer,
Revenue Divisional Office,
Devakottai.



WEB COPY



W.P(MD)No.4271 of 2024

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.4271 of 2024

23.02.2024