



W.P(MD)No.9533 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9533 of 2024
and
W.M.P(MD)Nos.8639 & 8640 of 2024

P.S.Habibullah

... Petitioner

Vs.

1.The District Collector,
Virudhunagar,
Virudhunagar District.

2.The Revenue District Officer,
O/o. The Revenue District Officer,
Sathur,
Virudhunagar District.

3.H.Mohammed Sulthan

4.H.Syed Ibrahim

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.C4-2-97-2023 dated 29.12.2023 and quash the same as illegal.



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For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.D.Sasi Kumar
Additional Government Pleader
for R.1 & R.2

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

2.The writ petitioner is the father of the respondents 3 and 4. The petitioner had executed settlement deed in their favour in the year 2005. The petitioner moved the Maintenance Tribunal seeking its cancellation under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. The petitioner's request was negated. Questioning the same, the petitioner filed appeal under Section 16 of the Act before the first respondent. The first respondent also confirmed the order passed by the second respondent. Challenging the same, the present writ petition came to be filed.



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3.The issued raised in this writ petition is no longer *res integra*. A learned Judge of this Court in a decision reported in **(2018) 6 CTC 21 (S.Neelavathi Vs The District Magistrate-cum-District Collector & Others)** had held that the provisions of the Senior Citizens will not operate retrospectively. In other words, an instrument executed before the Act came into force cannot be nullified or cancelled by invoking the power under Section 23 of the Act. The Maintenance Tribunal as well as the appellate authority have correctly approached the issue. Interference is not warranted. The impugned order is sustained.

4.The learned counsel appearing for the writ petitioner would point out that the petitioner is not being maintained by his son who was duty bound to do so. If that be so, the petitioner can very well file a fresh petition for maintenance before the second respondent. As and when it is received, it shall be disposed of by the second respondent within a period of two months thereafter. The petitioner's age is around 88 years and he is not a pensioner. He is said to be without any means. Therefore, an order as expeditiously as possible shall be passed in favour of the petitioner by the second respondent.



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5.This writ petition stands dismissed. There shall be no order as to

costs. Consequently, connected miscellaneous petitions are closed.

18.04.2024

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

Note: Issue order copy on 23.04.2024.

To

1.The District Collector,
Virudhunagar,
Virudhunagar District.

2.The Revenue District Officer,
O/o. The Revenue District Officer,
Sathur,
Virudhunagar District.



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G.R.SWAMINATHAN,J.

MGA

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