



C.R.P.(PD) (MD) No.951 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD) (MD) No.951 of 2020

and

C.M.P.(MD) No.6170 of 2020

Prabu

... Petitioner/Respondent

Vs.

P.Amaravathy

... Respondent/Petitioner

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order dated 05.08.2019 in Dispute No.09/2019 vide Na.Ka.No. 1806/2019/A2 on the file of the Sub Divisional Executive Magistrate/Sub Collector Officer of the Tribunal for Maintenance and Welfare of the Parents and Senior Citizen, Uthamapalayam Division.

For Petitioner : Mr.R.Suriyanarayanan

For Respondent : No appearance

ORDER

This Court heard this matter on an earlier occasion on 21.02.2024.

However, for want of representation for the respondents, the same is posted



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to today under the caption 'for orders'. In spite of the same, there is no representation for the respondents.

2. This Civil Revision Petition is filed by the petitioner aggrieved by an order passed by the Tribunal for Maintenance and Welfare of Parents and Senior Citizens, Uthamapalayam Revenue Division in Dispute No. 09/2019 in Na.Ka.No.1806/2019/A2, dated 05.08.2019.

3. The said proceedings were initiated by the respondent herein, who is the mother of the petitioner herein seeking cancellation of the release deed executed by the respondent herein along with her daughters dated 19.01.2010, *vide* Document No.183/2010 in favour of the petitioner herein under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act, 2007” for brevity). Through the said release deed, the respondent herein and her daughters released their right over the property in favour of the petitioner herein. The daughters of the respondent herein, though parties to the said release deed, have not taken any steps for cancellation of the said release deed. However,



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the respondent herein invoked the power under Section 23 of the Act, 2007 and approached the Tribunal seeking cancellation of the said release deed.

4. The scope and ambit of Section 23 of the Act, 2007 is very limited. It is only in a case where any senior citizen after the commencement of the Act, 2007 has transferred by way of gift or otherwise, his/her property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal. But, in the instant case, the transaction is that of a release deed, releasing the right of the respondent herein in favour of the petitioner herein for a consideration but not by way of gift or otherwise. Further, the same is also not subject to any condition as is evident from the said release deed placed before this Court. Hence, the respondent herein has no right to approach the Tribunal seeking cancellation of the said release deed. If at all the respondent has got any grievance for maintenance or otherwise against



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the petitioner herein, it is always open for her to invoke the provisions of the Act, 2007, but not for cancellation of the release deed in question. Thus, the respondent herein erroneously invoked the provisions of the Act, 2007 before the Tribunal and the said Tribunal without application of mind and in a mechanical manner, allowed the said application. Thus, it is evident that the Tribunal has exceeded its jurisdiction while passing the order under revision. Hence, the order under revision is liable to be declared as illegal and the one passed without jurisdiction. Accordingly, the order under revision is set aside.

5. This Civil Revision Petition is filed against the order passed under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 under Article 227 of the Constitution of India. In the considered view of this Court, the Tribunal constituted under Section 7 of the Act, 2007 is not a Tribunal subordinate to this Court coming under the superintendent jurisdiction under Article 227 of the Constitution of India. Hence, the question of entertaining this revision under Article 227 of the Constitution of India does not arise. In the instant, the petitioner ought to



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have invoked the jurisdiction of this Court under Article 226 of the Constitution of India. As the matter is already considered on merits by this Court as above, this Court is not inclined to go into that aspect for the present and the matter is disposed of in exercise of the jurisdiction of this Court under Article 226 of the Constitution of India. However, the Registry is directed to verify the said aspect while numbering any similar Revision Petitions filed hereafter against the order passed under the provisions of the Act, 2007.

6. Office is directed to communicate this order to the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai for taking appropriate further action as directed above.

7. This Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

29.02.2024

NCC : Yes/No
Index : Yes/No
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MUMMINENI SUDHEER KUMAR, J.

ABR

To

The Sub Divisional Executive Magistrate/
Sub Collector Officer of the Tribunal for
Maintenance and Welfare of the Parents and Senior Citizen,
Uthamapalayam Division.

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