



W.P.(MD).No.12112 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.12112 of 2023

and

W.M.P.(MD)No.10379 of 2023

K.Palanisamy

... Petitioner

Vs.

- 1.The District Collector,
Appellate Authority,
The Maintenance and Welfare of Parents
and Senior Citizens Appellate Tribunal,
Pudukottai District.
- 2.The Revenue Divisional Officer Cum
Chairman,
The Authority Under the Maintenance and
Welfare of Parents and Senior Citizens Act,
Pudukottai, Pudukottai District
- 3.The Revenue Tahsildar,
Pudukottai, Pudukottai District.
- 4.The District Registrar,
Pudukottai District, Pudukottai.
- 5.The Sub Registrar,
Office of the Sub Registrar,
Pudukottai, Pudukottai District.
6. Alamelu Ammal

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for entire records relating to the impugned proceedings in Na.Ka.C6/307/2022, dated 02.05.2023 issued by the 1st respondent and quash the same.

For Petitioner : Mrs.N.Krishnaveni,
Senior Counsel,
For Mr.S.Venkatesh

For R-1 to R-5 : Mr.T.Amjad Khan,
Government Advocate

For R-6 : Mr.S.Ramesh

ORDER

This writ petition is filed to quash the impugned proceedings in Na.Ka.C6/307/2022, dated 02.05.2023 issued by the 1st respondent.

2.The 6th respondent is the mother of the petitioner. She executed three settlement deeds dated 18.02.1999, 26.02.1999 and 17.03.1999 by which she had settled 6500 square feet of residential building in favour of the petitioner. However, in due course of time, indifferences crept between the mother and son, as a result of which, the mother was sent out of the house by the petitioner and she is residing with her widowed daughter,



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namely, Lalitha as on date. Aggrieved by the petitioner's act of forcibly sending her out of her own house, she made an application under Section 5 of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007, (Herein after referred to be Act, 2007) before the 2nd respondent. The 2nd respondent after the appropriate enquiry, held that the settlement deeds were executed before coming into force of the Act, 2007. The said act came into force in the state of Tamil Nadu with effect from 29.09.2008 and as such those documents were executed before coming into force of the said act in the state cannot be cancelled under any of the provisions of the aforesaid Act, 2007. However, a maintenance of Rs.8,000/- per month was directed to be paid by the petitioner to the 6th respondent. Challenging the same, the 6th respondent preferred an appeal before the 1st respondent. The 1st respondent on appreciation of facts and circumstances had cancelled the aforesaid settlement deed executed by the 6th respondent in favour of the petitioner. Challenging the said order of the 1st respondent, this writ petition came to be filed.

3.The learned senior counsel Mrs.N.Krishnaveni for Mr.S.Venkatesh appearing for the petitioner vehemently submitted that the 1st respondent ought not to have cancelled the settlement deeds as well as one Will



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executed by the 6th respondent. The 1st respondent is not vested with any authority to cancel the Will by all means. Even as far as the settlement deeds in the instant case are concerned, the same cannot be interfered with because the aforesaid documents were executed before coming into force of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007. However, the learned senior counsel submitted that the petitioner is paying the maintenance amount from the date of order of Revenue Divisional Officer, that is, from December 2021 without default. On that basis, pressed for allowing the writ petition.

4.Per contra, the learned counsel appearing for the 6th respondent, Mr.S.Ramesh fairly conceded that he is receiving the maintenance which was paid by the petitioner without any default. However, the plight of the 6th respondent is that, she is a senior citizen who is 81 years old and she is a heart patient. The faulty amount of Rs.8,000/- (Rupees Eight Thousand only) with which the petitioner is providing is not sufficient for her to meet out her day to day expenses because she has availed a rented house for an amount of Rs.10,000/-. That apart, she is also sustaining regular medical expenses. In view of the same, the said difficulties should be addressed by the petitioner.



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5. Heard the learned counsels on either sides and carefully perused the materials available on record.

6. It is needless to state that the documents executed before coming into the force of the Act 2007 could not be dealt with in terms of the provisions of the aforesaid act. Obviously, all the three settlement deeds executed by the 6th respondent in favour of the petitioner were executed as early as in the year 1999. In view of the same, this Court is of the considered opinion that the 1st respondent ought not to have meddled with the issue of execution of settlement deed executed by the 6th respondent in favour of the petitioner, thereby cancelling the same. Such a power is not vested with the 1st respondent since the documents were executed in the year 1999 itself. Accordingly, that portion of the order passed by the 1st respondent is hereby set aside. Apart from the payment of maintenance of Rs.8,000/-, the petitioner is also directed to meet the medical expenditure whatsoever is met by the 6th respondent. The 6th respondent is directed to intimate the petitioner with the details of the medication and the necessary prescriptions facilitating the petitioner to provide the same to the 6th respondent every month. Section 2(b) of the Act, 2007 defines the word maintenance, maintenance includes the provisions for food, clothing,



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residence, medical attendants and treatments. Considering the fact that the 6th respondent is residing with her divorcee daughter in a rented residence and also the fact that the house property settled in favour of the petitioner by the 6th respondent has been sold off by him, the petitioner is directed to provide the entire monthly rent to the 6th respondent.

7. Accordingly, this writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

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L.VICTORIA GOWRI, J.

Sml

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