



W.P.(MD)No.13674 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.12.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.13674 of 2024

and

W.M.P.(MD)No.12046 of 2024

A.Subaitha Beevi

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Ramanathapuram District.

2. S.Kadhar Mohideen

3. Mohamed Jibiril

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order in Ma.Mu(A4)/7862/2022 dated 13.02.2023 on the file of the 1st respondent and quash the same and further directing the 1st respondent to cancel the Settlement Deed dated 19.04.2021 executed by the petitioner in favour of the respondents 2 and 3.



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For Petitioner : Mr.K.Vinoharan
For Respondents : Mr.S.Kameswaran (R1)
Government Advocate
Mr.K.Sasiprabhu (R3)
Government Advocate
No appearance (R2)

ORDER

This writ petition has been filed challenging the impugned order dated 13.02.2023 on the file of the 1st respondent, with a direction to the first respondent to cancel the settlement deed dated 19.04.2021 executed by the petitioner in favour of the respondents 2 and 3.

2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The petitioner is the mother of the second and third respondents. The petitioner executed a settlement deed dated 19.04.2021 bearing Document No. 1492 of 2021 in favour of the second and third respondents on the file of the Keelakarai Sub Registry. The said settlement deed is a conditional settlement deed, which categorically requires the second and third respondents to maintain



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the petitioner till her lifetime. However, the second and third respondents failed to maintain the petitioner and the petitioner is suffering from penury. Therefore, the petitioner made an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the first respondent.

4. The first respondent, on appreciation of facts and after enquiry, by refusing to cancel the settlement deed executed by the petitioner in favour of the second and third respondents, had adjudicated upon and passed an order of maintenance to be paid by the second and third respondents to the tune of Rs.5000 each, every month. Challenging the same, the petitioner is before me.

5. Sections 23 (1), (2) and (3) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, provide for transfer of property to be made in certain circumstance and the same is extracted as follows:-

“23. Transfer of property to be void in certain circumstances

1. Where any senior citizen who, after the commencement of this Act, has by way of gift or otherwise, his 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



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option of the transferor be declared void by the Tribunal.

2. Where any senior citizen has a right to receive maintenance out of an estate and such estate or part, thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

3. If any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.”

6. In the instant case, the settlement deed executed by the petitioner in favour of the second and third respondents has an explicit condition that they should maintain her throughout her lifetime. Since the respondents 2 and 3 failed to maintain her, by invoking Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, this Court has no hesitation to hold that the aforesaid settlement is deemed to have been made by fraud or coercion or undue influence and the same is hereby declared as void automatically and the first respondent ought to have cancelled the same. Since the same is not done, this Court, by declaring that the settlement deed dated 19.04.2021 bearing Document No.1492 of 2021 is void, set aside the impugned order dated 13.02.2023, as far as the portion, where the first respondent has



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refused to cancel the settlement deed and the order with respect to maintenance is upheld. The matter is remanded back to the first respondent for fresh consideration on the question of cancellation of the settlement deed in terms of the observations made in this writ petition and pass appropriate orders, after putting the petitioner and the respondents 2 and 3 on notice, within a period of four weeks from the date of receipt of a copy of this order. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

05.12.2024

NCC : Yes / No
Index : Yes / No
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L.VICTORIA GOWRI, J.

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TO:-

1. The Revenue Divisional Officer,
Ramanathapuram District.

Order made in
W.P.(MD)No.13674 of 2024

Dated:
05.12.2024