



W.P.(MD).No.23611 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23611 of 2024

and

W.M.P.(MD)Nos.19991, 19992 and 24711 of 2024

P.Ramamoorthy

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

2.R.Palanisamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings before the 1st respondent in Na.Ka. M.R/7115/2024 dated 16.09.2024 and quash the same.

For Petitioner : Mr.P.Vadivel

For R-1 : Mr.S.Kameswaran,
Government Advocate

For R-2 : Mr.A.Srinivasan



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ORDER

This writ petition is filed challenging the final enquiry notice issued by the 1st respondent on 16.09.2024 to appear for the enquiry to be conducted on 01.10.2024.

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

3. The petitioner is the eldest son of the 2nd respondent. The 2nd respondent had made an application under Section 5 of the Maintenance and Welfare of the Parents and Senior Citizens Act, 2007, (herein after to be referred as Act, 2007) before the 1st respondent. On receipt of the same, for the purpose of conducting an enquiry, the 1st respondent had required the petitioner as well as the 2nd respondent to appear before him. However, the petitioner failed to turn up, and hence the 1st respondent issued another notice on 16.09.2024 requiring the petitioner to appear finally on 01.10.2024 as a last chance. Challenging the same, this writ petition is filed.

4. The contention of the learned counsel for the petitioner is that the 2nd respondent father had executed a settlement deed with respect to certain



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property in document No.7240 of 2020 on 30.09.2020 in favour of the petitioner. More particularly, the said settlement deed had no preconditions compelling the petitioner to maintain the 2nd respondent. In view of the same, the learned counsel for the petitioner categorically contended that the 2nd respondent cannot make an application under Section 5 of the Act, 2007 seeking cancellation of document No.7240 of 2020.

5.However, when the matter came up for admission, this Court was pleased to pass an order of interim stay on 03.10.2024. The learned counsel for the 2nd respondent had filed a vacate stay petition in W.M.P.(MD)No. 24711 of 2024 and he placed before me certain documents for my perusal.

6.The learned counsel for the 2nd respondent submitted that on the date of execution of the settlement deed in document No.7240 of 2020, that is, on 30.09.2020, the petitioner as well as the other sons executed an undertaking before one notary public, ensuring that all three would maintain the 2nd respondent and the 2nd respondent will have the right of collecting the rents situated in the property whichever have been settled already by the 2nd respondent in favour of each of his sons.



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7. Recording the same, this Court hereby disposes of this writ petition directing the 1st respondent to summon the notary public one M.Ravi Sankar, 83, Ettayapuram, Kalugumalai, Kovilpatti Taluk, Tuticorin District, and the witnesses whoever signed in the aforesaid undertaking. The 1st respondent is directed to issue a fresh notice requiring the petitioner and the 2nd respondent to appear before the 1st respondent for conducting enquiry. The 1st respondent will examine the witnesses in the undertaking as well as the notary public and ensure the genuineness of the same. Without going into the merits of this case whatever which has been placed before me, this Court hereby direct the 1st respondent to conclude the enquiry as expeditiously as possible as mandated in the Act, 2007. The 1st respondent is further directed to obtain a written statement from all the parties concerned before the conclusion of the enquiry. The 1st respondent is further directed to keep in mind the mandate of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which provides in Section 2(b) that, “maintenance” includes provision for food, clothing, residence and medical attendance and treatment.



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8. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.12.2024

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

The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.



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L.VICTORIA GOWRI, J.

Sml

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