



W.P(MD)No.25336 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.25336 of 2024

and

W.M.P.(MD)Nos.21504 & 21505 of 2024

Shanmughathai

... Petitioner

Vs.

1.The District Collector,
Tenkasi District.

2.The Revenue Divisional Officer,
Sankarankovil, Tenkasi District.

3.The Sub Registrar,
Sankarankovil, Tenkasi District.

4.K.M.Sabari Arasu

5.Minor.Tharunpandian

... Respondents

(5th respondent minor is represented by his natural guardian of father, namely, Kuttymariappan)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in his proceedings Mu.Mu/COLR/11799/2023-B1, dated 02.08.2024 consequential order passed by the 2nd respondent through his proceedings in O.MU.A4/3003/2021, dated



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26.10.2021 and quash the same as illegal and to direct the 3rd respondent to cancel the settlement deed in favour of the respondents 4 and 5 bearing Document No.3003 of 2016, dated 13.12.2016 registered on the file of the 3rd respondent.

For Petitioner : Mr.B.Arun
For R1 & R2 : Mr.D.Sadiq Raja,
Additional Government Pleader
For R3 : Mr.C.Satheesh,
Government Advocate

ORDER

According to the petitioner, her husband executed a settlement deed in favour of the respondents 4 and 5 on 14.12.2016. In the said settlement deed, the petitioner was shown as the guardian of the respondents 4 and 5. Thereafter, since the 4th respondent and the petitioner's son-in-law did not take care of the petitioner and her husband, the petitioner's husband gave an application before the 2nd respondent under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking for cancellation of the said settlement deed. Pursuant to the same, the 2nd respondent, having conducted detailed enquiry, dismissed the application, vide order dated 26.10.2021, holding that there was no condition attached in the settlement deed.



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Thereafter, the husband of the petitioner died. Therefore, challenging the said dismissal order of the 2nd respondent, the petitioner has preferred an appeal before the 1st respondent and the same was also dismissed, vide order dated 02.08.2024. Challenging the same, the petitioner has filed this Writ Petition.

2.Heard the learned counsel on either side and perused the materials available on record.

3.It is to be noted that before the 1st respondent, the petitioner has given a statement that the settlement has been executed, when her husband was not keeping good health and state of mind, whereas before the 2nd respondent, she has taken a different stand. Further, in the very settlement deed itself, the petitioner was shown as guardian of the respondents 4 and 5. Therefore, the contention of the petitioner that the settlement was executed, when her husband was in unsound mind, cannot be countenanced. If the settlement is sought to be cancelled on the ground that the same is executed by the executor, when he was unsound mind, those facts have to be established in the manner known to law only in the civil Court and not before the authorities under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



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4.This Court is of the view that unless the power of revocation is reserved in the settlement, the settlement cannot be cancelled. Even to cancel any document invoking Section 23 of the Act, the settlement has been executed subject to such conditions. In the absence of any such conditions attached in this settlement to maintain senior citizen, such documents cannot be cancelled, as per the dictum of the Hon'ble Supreme Court of India in the case of ***Sudesh Chhikara Vs. Ramti Devi and others*** reported in **2023 (241) AIC 12**.

5.In such view of the matter, this Court is not inclined to interfere with the impugned orders passed by the respondents. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.10.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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