



W.P.(MD).No.27199 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.27199 of 2024

and

W.M.P.(MD)No.23052 of 2024

V.Ramaiah

... Petitioner

Vs.

1.The District Collector /
Officer of the Appellate Tribunal
of Maintenance of Parents and
Senior Citizens,
Madurai, Madurai District.

2.The Revenue Divisional Officer /
The Tribunal for Maintenance of
Senior Citizens Welfare
Tribunal Officer,
Usilampatti, Madurai District.

3.Muthukrishnammal

4.Sanmuganathan

5.Lakshmanan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order of the 1st respondent in Mu.Mu.No. 744392/2023/C6 dated 03.09.2024 upholding the order passed by the 2nd



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respondent in Pa.Mu.No.3953/2019/Aa4 dated 22.12.2022 and set aside the same and consequently direct the respondents 3 to 5 to maintain the petitioner and also direct the 3rd respondent return the property received from the petitioner through gift settlement dated 04.01.2006.

For Petitioner : Mr.N.Tamilmani
For R-1 & R-2 : Mr.T.Amjad Khan,
Government Advocate

ORDER

The present writ petition has been filed to call for the records pertaining to order of the 1st respondent in Mu.Mu.No.744392/2023/C6 dated 03.09.2024 upholding the order passed by the 2nd respondent in Pa.Mu.No.3953/2019/Aa4 dated 22.12.2022 and set aside the same and consequently direct the respondents 3 to 5 to maintain the petitioner and also direct the 3rd respondent return the property received from the petitioner through gift settlement dated 04.01.2006.

2. By consent of both the parties, this writ petition is taken up for final hearing at the admission stage itself.

3. Heard, Mr.N.Tamilmani, learned counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate appearing for



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the respondents 1 and 2 and carefully perused the materials available on record.

4. Considering the limited scope of the relief sought for by the petitioner herein, notice to the respondents 3 to 5 is dispensed with

5. The petitioner is a senior citizen. The petitioner's wife, namely, Muniammal died in the year 2013. The respondents 3 to 5 are the daughter and sons of the petitioner respectively. On 04.01.2006, the petitioner executed a settlement deed in favour of the 3rd respondent with respect to 1 Acre 1 cent of land in Saptur Village on her assurance that she will take care of the petitioner. Since she refrained from maintaining the petitioner, the petitioner had filed a maintenance petition under Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the 2nd respondent on 07.12.2018 to cancel the gift settlement deed dated 04.01.2006 executed by the petitioner in favour of the 3rd respondent. However, the said petition was dismissed by the 2nd respondent on 22.12.2012. Against which, the petitioner had preferred an appeal on 09.03.2023 before the 1st respondent and the order of the 2nd respondent came to be confirmed by the 1st



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respondent on 03.09.2024. Challenging the same, this writ petition came to be filed.

6. The operative portion of the impugned order passed by the 1st respondent would reveal that the 1st respondent had refused to grant the relief sought for by the petitioner more particularly the cancellation of the gift deed which was registered in the year 2006 for the sole reason that the 1st respondent had no jurisdiction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, to cancel those documents which were executed before the implementation of the aforesaid act which came into force with effect from 29.09.2008. However, in the said impugned order, the question of grant of maintenance by the respondents 3 to 5 to the petitioner who is a senior citizen has not been dealt with.

7. In view of the same, without interfering with the operative portion of the impugned order refusing to cancel the settlement deed dated 04.01.2006 in favour of the 3rd respondent, this Court hereby remand back the same to the 2nd respondent for re-consideration of the factum of directing the respondents 3 to 5 to pay maintenance to the petitioner and the 2nd respondent is directed to pass appropriate orders positively after giving



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appropriate opportunity to the respondents 3 to 5, in favour of the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. The 2nd respondent is directed to keep in mind the fact that the petitioner is not receiving any pension while considering the question of grant of relief.

8. Accordingly, the writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed. Registry is directed to return the original impugned order to the petitioner.

14.11.2024

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

- 1.The District Collector /
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L.VICTORIA GOWRI, J.

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