



W.P(MD)No.2012 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.2012 of 2024

and

WMP(MD)Nos.2014 and 2016 of 2024

M/s. Aptus Value Housing Finance India Limited,
8B, Doshi Towers,
205, Ponnammalle High Road,
Kilpauk, Chennai 625 010,
Represented by its Authorised Officer,
Muthupandi

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Sub Collector,
Senior Citizen Maintenance and Welfare Tribunal,
Padmanabhapuram,
Kanyakumari District.

3. The Sub Registrar,
Munjirai,
Kanyakumari District.

4.V.Sunu

5.P.Viswanathan

...Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in case No. A2/OP-275/2023 dated 22.11.2023 passed by the 2nd respondent relating to the land in Survey No.500/22A measuring to an extent of 3.370 cents Thengaipattanam Village, Painkulam Village Panchayat, Killiyoor Taluk, Kanyakumari District and to quash the same by considering the petitioner's representation dated 24.01.2024.

For Petitioner : Mr.V. Sugumar

For R1 to R3 : Mr.S. Kameshwaran
Government Advocate

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in case No. A2/OP-275/2023 dated 22.11.2023 by considering the petitioner's representation dated 24.01.2024.

2.The petitioner is a housing finance company limited. The land in Re-Survey No.500/22A originally belonged to the 5th respondent who had executed a settlement deed in favour of the 4th respondent in Doc.No.2475 of 2022, dated 23.06.2022. The contention of the petitioner Company is that the respondents 4 and 5 approached the petitioner financial institution and obtained credit facility for a sum of Rs.10,27,673/- and have created secured interest in favour of the financial institution provided under SARFAESI Act. The 4th



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respondent executed memorandum of deposit of title deeds in favor of the petitioner institution in Doc.No.4550 of 2022. After obtaining the loan, the respondents 4 and 5 defaulted in repaying the loan amount. Hence, the petitioner Company initiated proceedings under SARFAESI Act. The respondents 4 and 5 refused to repay the loan and stated that they have approached the 2nd respondent to cancel the settlement deed dated 23.06.2022. The 5th respondent has approached the 2nd respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, alleging that the 4th respondent failed to take care of the 5th respondent. After considering the complaint, the 2nd respondent has passed the impugned order, dated 22.11.2023, whereby the settlement deed was cancelled and also directed the 3rd respondent to make necessary changes.

3.The contention of the petitioner is that the 2nd respondent failed to consider the secured interest created to the financial institution. Further, the respondents 4 and 5 colluded with each other and cancelled the settlement deed. Hence, the petitioner Company submitted a representation dated 24.01.2024 to revoke the cancellation deed. Since no action was taken, the present writ petition is filed.

3.The issue of unilateral cancellation of settlement deed was considered by the Hon'ble Full Bench of this Court wherein it is held that



unilateral cancellation is illegal. This Court also considered the same in W.P. (MD)No.21637 of 2021, vide order, dated 17.07.2023.

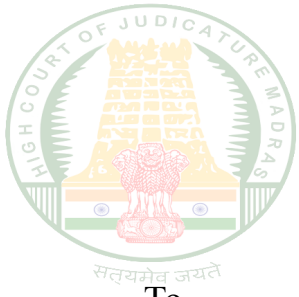
4.The impugned order was passed under the under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 but the SARFAESI Act is having overriding effect. Therefore, the impugned order cannot be sustained under the eye of law. However, the 4th respondent is liable to take care of the 5th respondent. Therefore, 4th respondent is directed to pay monthly maintenance amount of Rs.5,000/- to the 5th respondent. Therefore, the impugned order is quashed.

5.With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.08.2025

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

Tmg



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S.SRIMATHY, J.

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**ORDER MADE IN
W.P(MD)No.2012 of 2024**

DATED : 08.08.2025