

W.P.(MD)Nos.31577 and 31583 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 27.01.2025

Delivered On : 28.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.31577 and 31583 of 2024
and
W.M.P.(MD)Nos.26438 and 26442 of 2024

Rameesha Begum

... Petitioner in both W.Ps.

Vs.

1.The District Collector,
Ramnad District,
Collectorate Buildings,
Ramnad.

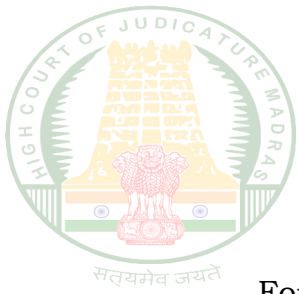
2.The Revenue Divisional Officer,
Ramnad,
Ramanathapuram.

... Respondents in both W.Ps.

3.Kader Mohideen ... 3rd Respondent in W.P.(MD)No.31577 of 2024

3.Hatheeja Mimun ... 3rd Respondent in W.P.(MD)No.31583 of 2024

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order passed by the first respondent dated 15.12.2024 in (U.P) COLREV 18675/2024-C2 and (U.P) COLREV 18679/2024-C2 respectively and quash the same.



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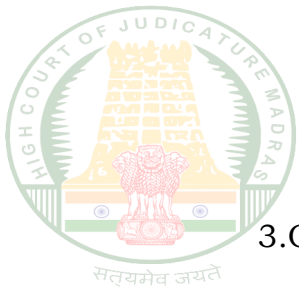
For Petitioner : Mr.B.A.Muruganantham
(in both W.Ps.)
For Respondents 1 & 2 : Mr.D.S.Neduncheliyan
(in both W.Ps.) Government Advocate
For 3rd Respondent : Mr.C.Gangai Amaran
(in both W.Ps.)

COMMON ORDER

Both the Writ Petitions are filed by the same writ petitioner and the third respondent in W.P.(MD)No.31577 of 2024 is the father of the petitioner and the third respondent in W.P.(MD)No.31583 of 2024 is the mother of the petitioner.

Gist of the case:-

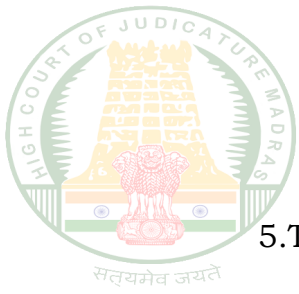
2.The writ petitioner is the eldest daughter of the third respondent in both the Writ Petitions. The third respondent have five daughters and one son, namely, Rameesha Banu, Rashida Banu, Marlia Banu, Marjitha Banu, and Mahira Banu, of whom the writ petitioner is the eldest of all. On 15.09.2020, the third respondent father had executed a gift settlement deed on his own volition with respect to the properties, namely, MKD Residency and MK bungalow building, in favour of all his five daughters retaining the right of life interest over the said property and that the property should not be subjected to any kind of encumbrance during his lifetime. He also retained his right of enjoying the income out of the said properties during his lifetime.



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3. On the same day, the third respondent mother had also executed a gift settlement deed on her own volition in favour of the writ petitioner with respect to the property, namely, Wasima Textile Building, Ramanathapuram, and as a return gesture, the petitioner also executed a settlement deed in favour of her mother on 12.07.2021, with respect to another property. The petitioner's mother is deriving an income of Rs. 15,000/- from it. The settlement deed was executed by the petitioner's mother, by reserving the right of life interest over the same and enjoying the income out of the properties during her lifetime and that the property should not be subjected to any kind of encumbrance during her lifetime. However, all the properties settled by the father and mother, that is, the third respondents herein, were handed over to the petitioner and the other beneficiaries of the settlement deed. The parents of the petitioner continued to enjoy the income/fruits of the properties settled in favour of the writ petitioner and her sisters.

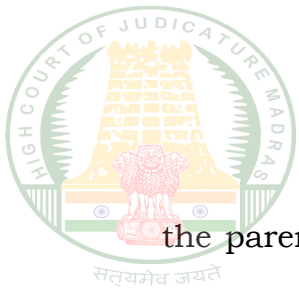
4. The petitioner's father is a prominent billionaire in Ramanathapuram with extensive real estate and he had already settled 90 % of his properties in favour of his only son, namely, M.K.Mohammad Ali, and remaining 10 percent of his properties were settled in favour of the petitioner and other daughters respectively.



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5.The claim of the petitioner is that, due to the compulsion and at the instance of his son Mr.Mohammad Ali, the petitioner's father and mother, made an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, herein after to be mentioned as Act, 2007), as against the writ petitioner and the other daughters, seeking to cancel the settlement deed executed by them in favour of their daughters. The 2nd respondent on conducting an enquiry, in terms of the procedure provided under the Act, 2007, dismissed the aforesaid application made by both the respondents separately in his proceedings bearing No.Mu.Mu. (A4)/575/2024 dated 14.06.2024, recording the reason that the applicants, that is, the parents of the petitioner, are not suffering any penury and the situation for making a complaint under Section 5 of the Act, 2007, would not arise in view of the proficiency and wealthy circumstances.

6.Challenging the same, the parents of the writ petitioner, that is, the third respondent in the respective Writ Petitions, before me, preferred an Appeal under Section 15(1) of the Act, 2007, before the first respondent, that is, the District Collector, Ramanathapuram district. The 1st respondent without cancelling the settlement deed executed in favour of the writ petitioner and others, had passed an order observing that in terms of the conditions in the settlement deed executed by the third respondents, vide document No.402/2020 dated 15.09.2020, 4067/2020 dated 15.09.2020 and 4432/2020 dated 28.09.2020, there is no bar for the appellants, that is,



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the parents of the writ petitioner, herein, to enjoy the properties concerned and to receive all the income arriving at of those properties during their lifetime and further directed that none of their daughters should create any encumbrance with respect to those properties settled by the settlement deeds mentioned supra during the lifetime of the parents of the petitioner. Challenging the said orders separately passed on the Appeal made by the parents of the writ petitioner herein, these Writ Petitions are filed.

7.The learned counsel appearing for the writ petitioner categorically contended that, on execution of the aforesaid settlement deeds, the parents of the writ petitioner handed over the possession of the respective properties to the writ petitioner and the other beneficiaries of the settlement deed. However, the income derived out of those properties were already continuously handed over to the parents of the petitioner without any deviation and interruption and they are the ones, who are actually enjoying the fruits of the properties settled in favour of the petitioner and her other sisters. The writ petitioners also undertake that they will not create any kind of encumbrance during the lifetime of their parents with respect to those properties settled in their favour. Despite the same, the 1st respondent without appreciating the contents of the settlement deeds executed by the third respondents herein, proceeded to observe that the senior citizens are entitled for the possession as well as income of the properties concerned and the interference of this Court is warranted at the point of confirming the



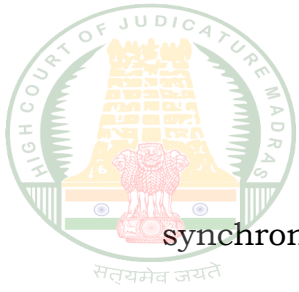
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possession of the subject property in favour of the senior citizens and pressed for allowing the Writ Petition.

8.No doubt, the second respondent had gone into the root of the application made by the third respondents in the respective Writ Petitions and concluded that an application under Section 5 of the Act, 2007, is not warranted considering the affluent and rich status of the senior citizens involved in these Writ Petitions. However, the first respondent without disturbing the settlement deeds, had made an observation that the senior citizens are entitled to the possession of the properties as well.

9.Heard the learned counsels on either side and carefully perused the materials available on record.

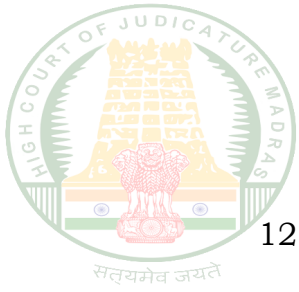
10.I am of the considered view that, the settlement deed executed by the father and mother of the writ petitioner on their own volition in favour of the writ petitioner and her sisters separately had made it clear that, the possession of the subject properties would be handed over to the beneficiaries with immediate effect, however, reserving right of life interest and the right of enjoying the income arriving out of the subject properties during their lifetime, and that the beneficiaries should not create any encumbrance during their lifetime. Having not cancelled the settlement deeds, the first respondent ought to have passed an order in



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synchronization with the aforesaid settlement deed. As rightly pointed out by the second respondent in his order, the case has not arisen out of the penury or desertions suffered by the senior citizens in the hands of any of their children. Under such circumstances, it is not necessary to disturb the possession of the subject properties, which is settled in favour of the writ petitioner and her other sisters.

11. Accordingly, the impugned order involved the Writ Petitions are hereby quashed and the order passed by the second respondent dated 14.06.2024 is upheld. However, it is made clear that the writ petitioner and the other beneficiaries of the respective settlement deeds bearing document No.402/2020 dated 15.09.2020, 4067/2020 dated 15.09.2020 and 4432/2020 dated 28.09.2020, should not create any kind of encumbrance with respect to the subject properties of those settlement deeds during the lifetime of the third respondents in both Writ Petitions, that is, the father and mother of the writ petitioner. That apart, it is made clear that it is only the senior citizens who are entitled to enjoy the income arriving out of the subject property of the settlement deeds.



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12. Accordingly, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.04.2025

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

To

1. The District Collector,
Ramnad District,
Collectorate Buildings,
Ramnad.

2. The Revenue Divisional Officer,
Ramnad,
Ramanathapuram.



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L.VICTORIA GOWRI, J.

Mrn

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