NC: 2024:KHC:27940
WP No. 2781 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 2781 OF 2023 (GM-RES)

BETWEEN:

1. SUNIL RAO G K
   AGED ABOUT 34 YEARS
   S/O KRISHONOJI RAO
   R/O GAARAGESHWARAPURA
   GUDEMARANAHALLI POST
   MAGADI TALUK
   RAMANAGARA DISTRICT 562 127.

2. RAVISHANKAR
   AGED ABOUT 38 YEARS
   S/O LATE HANUMANTHARAYAPPA
   R/O KOTTAGONDANAHALLI
   SOLURU HOBLI, MAGADI TALUK
   RAMANAGARA DISTRICT 562 127.

…PETITIONERS

(BY SRI. VAGEESHA N.,ADVOCATE)

AND:

Digitally signed by Vandana S
Location: HIGH COURT OF KARNATAKA

1. LINGADEVACHARI @ LINGADEVARAJACHAR
   AGED ABOUT 80 YEARS
   S/O LATE CHANNACHARI
   R/O HARALAKERE VILLAGE
   MAYASANDRA HOBLI
   TURUVEKERE TALUK
   TUMKUR DISTRICT 572 221.

2. H L SHIVALINGACHAR
   AGED ABOUT 55 YEARS
   S/O LINGADEVARAJACHAR
   R/O YALLUPURA
   NEAR BANK CIRCLE VEERAPURA POST
   KASABA HOBLI DODDABALLAPURA TALUK
   BANGALORE RURAL DISTRICT 561 203.

3. KANTHARAJU
AGED ABOUT 53 YEARS
S/O LATE LINGADEVARAJACHARI
HEBBURU KAMAKSHI MATT ROAD
TUMKUR DISTRICT 572 120.

4. LOKESHA
AGED ABOUT 51 YEARS
S/O LINGADEVARAJACHARI
R/O HARALAKERE VILLAGE
SIGEHALLI POST
MAYASANDRA HOBLI
TURUVEKERE TALUK
TUMKUR DISTRICT 572 221.

5. THE ASSISTANT COMMISSIONER,
TIPTUR SUB-DIVISION, TIPTUR,
TUMKUR DISTRICT – 572201.

…RESPONDENTS

(BY SRI. AMRUTHESH.N.P., ADVOCATE FOR R-1
SRI. SRINIVASA.M.G., ADVOCATE FOR R-3 & R-4
SRI. S.H. RAGHAVENDRA., AGA FOR R-5
NOTICE TO R-2 DISPENSED WITH VIDE ORDER DATED: 18.07.2024)

THIS W.P IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 06/12/2022 PASSED BY THE CHAIRMAN, R5 THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS TRIBUNAL AND ASSISTANT COMMISSIONER, TIPTUR SUB-DIVISION, TIPTUR IN MAG/HINA/CR/35/2022-23 PRODUCED AT ANNEXURE-E.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In this petition, petitioners seek quashing of the impugned order at Annexure-E dated 06.12.2022 passed by the 5th respondent and for other reliefs.

2. Heard learned counsel for the petitioners and learned AGA for the 5th respondent as well as learned counsel for respondents 1, 3 and 4 and perused the material on record. For the order proposed, notice to 2nd respondent is dispensed with.

3. A perusal of the material on record will indicate that the 1st respondent is the father of 2nd respondent. On 08.12.2020, the 1st respondent executed a registered Gift deed in favour of the 2nd respondent in relation to the subject property. Subsequently, the 2nd respondent sold the subject property in favour of the petitioners herein vide registered sale deed dated 06.10.2022. Thereafter, the 1st respondent instituted the aforesaid proceedings against his son - 2nd respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking cancellation of the Gift deed and for other reliefs. The said petition having been contested by respondents 2 to 4, the 5th respondent proceeded to pass the impugned order allowing the petition, aggrieved by which, the petitioners are before this Court by way of the present petition.

4. Though several contentions have been urged by both sides in support of their respective claims, having regard to the undisputed fact that the petitioners purchased the subject property

on 06.10.2022 prior to the 1st respondent initiating proceedings against respondents 2 to 4 on 08.10.2022 and since the petitioners were not made parties to the instant proceedings nor were they provided any opportunity to contest the same, without expressing any opinion on the merits / demerits of the rival contentions, I deem it just and appropriate to set aside the impugned order and remit the matter back to the 5th respondent for reconsideration afresh in accordance with law after impleading the petitioners as additional parties to the proceedings and providing them sufficient and reasonable opportunity to contest the proceedings in accordance with law.

5. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.

(ii) The impugned order at Annexure-E dated 06.12.2022 passed by the 5th respondent is hereby set aside.

(iii) The matter is remitted back to the 5th respondent for reconsideration afresh in accordance with law.

(iv) Petitioners are directed to be impleaded as additional – respondents 4 and 5 in the proceedings before the 5th respondent.

(v) Petitioners and respondents 1 to 4 are directed to appear before the 5th respondent on **12.08.2024** without awaiting further notice from 5th respondent.

(vi) On that date, the 5th respondent shall implead the petitioners as additional parties – respondents 4 and 5 to the said proceedings.

(vii) Petitioners shall file their statement of objections to the main petition on 12.08.2024 and contest the proceedings in accordance with law.

(viii) Liberty is reserved in favour of the parties to put forth their respective contentions which shall be considered by the 5th respondent, who shall dispose of the proceedings within a period of three months from 12.08.2024.

(ix) All rival contentions are kept open and no opinion is expressed on the same.

Sd/-
JUDGE

Srl.