



W.P(MD)Nos.13007 and 13224 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.13007 and 13224 of 2023

and

WMP (MD) Nos.11015 & 11175 of 2023

W.P(MD)No.13007 of 2023

Rihana Parveen

... Petitioner(s)

VS.

1. The District Collector Cum Appellate Tribunal
Under the Maintenance and Welfare of Parents and
Senior Citizens Act,
Thoothukudi,
Thoothukudi District.

2. The Revenue Divisional Officer Cum Maintenance Tribunal,
Under the Maintenance and Welfare of Parents and
Senior Citizens Act,
Thoothukudi,
Thoothukudi District.

3. A.Kajah Mohideen

... Respondent(s)



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PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari, to call for the records relating to the impugned order issued by the 1st respondent in Na.K.C1/420811/2022 dated 18.05.2023 and quash the same as illegal.

For Petitioner : M/s.N.Mohideen Basha

For R1 : Mr.M.Mahaboob Athiff, Counsel for State

For R3 : Mr.R.J.Karthik

W.P(MD)No.13224 of 2023

Musiriya Banu

... Petitioner(s)

vs.

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Under the Maintenance
and Welfare of Parents And Senior
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2. The Revenue Divisional Officer Cum
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For Petitioner : M/s.N.Mohideen Basha

For R1 : Mr.M.Mahaboob Athiff, Counsel for State

For R3 : Mr.R.J.Karthik

COMMON ORDER

Aggrieved by the cancellation order dated 18.05.2023 passed by the first respondent, whereby the registered settlement deed executed by the third respondent in favour of the petitioners was cancelled, the petitioners have filed the present writ petitions.

2. The learned counsel appearing for the petitioners would submit that The petitioner's father (third respondent) executed a registered settlement deed dated 23.09.2011 (Doc. No. 3733/2011) in favour of the petitioner, out of love and affection. The settlement deed specifically recites that it is irrevocable

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and that any cancellation would be void. On the same day, the third respondent also executed a separate settlement deed (Doc. No. 3732/2011) in favour of the petitioner's sister in respect of another property. Subsequently, based on a complaint lodged by the third respondent alleging that the petitioner had failed to maintain and take care of him, proceedings were initiated by the first respondent under the relevant provisions of law. Pursuant thereto, the first respondent passed the impugned order dated 18.05.2023, holding that the petitioners had failed to maintain the third respondent and consequently directed the cancellation of the settlement deed dated 23.09.2011. Aggrieved by the said order, the petitioners have filed these writ petitions before this Court

3. The learned counsel for the petitioners would submit that the authorities under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, have jurisdiction under Section 23 only in respect of transfers by way of gift or settlement, where the transfer is subject to a condition that the transferee shall provide basic amenities and physical needs to the transferor. In the present case, the document in question is a settlement deed without any such conditional clause. Therefore, the provisions of Section 23 of the Act are wholly inapplicable



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and the first respondent has no jurisdiction to entertain the complaint or direct cancellation of the settlement deed.

4. Placing reliance upon the decision of the Hon'ble Full Bench in the case of ***Sasikala v. Revenue Divisional Officer and another*** reported in 2022 SCC online Mad 4343, the learned counsel submitted that, it was categorically held that in the absence of a condition incorporated in the deed, the power under Section 23(1) cannot be exercised and further held that when a settlement deed is executed, the same cannot be cancelled unilaterally. Therefore, the impugned order dated 20.01.2021 is wholly without jurisdiction and liable to be quashed.

5. The learned Counsel for the State appearing for the first respondent would fairly submit that the registered settlement deeds dated 23.09.2011 does not contain any specific condition obligating the petitioners to provide basic amenities and physical needs to the third respondent. In the absence of such a condition incorporated in the document of transfer, the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, would not be attracted.



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6. This Court has carefully considered the submissions on either side and perused the materials placed on record.

7. Admittedly, the issue is no longer *res integra*. The Hon'ble Supreme Court in ***Sudesh Chhikara v. Ramti Devi and another***, reported in (2024) 14 SCC 225, has held that the deeming fiction under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, can be invoked only when the transfer is made subject to the condition that the transferee shall provide the basic amenities and physical needs to the transferor and the transferee fails to fulfil such condition. Unless such a condition is expressly incorporated in the document of transfer, the jurisdiction under Section 23 cannot be exercised for declaring the transfer void. The Supreme Court further held that the authorities constituted under the Act cannot assume jurisdiction to annul a transfer in the absence of the statutory requirements contemplated under Section 23.

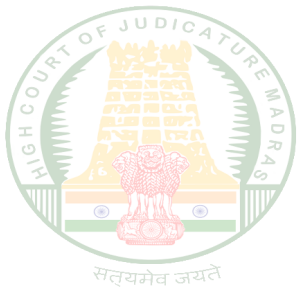


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8. Coming to the facts of the present case, admittedly, the documents in question is the registered settlement deeds and there is no recital therein imposing any obligation upon the petitioners to provide basic amenities and physical needs to the third respondent. Therefore, the essential requirement for invoking Section 23 of the Act is absent. Consequently, the first respondent had no jurisdiction to direct cancellation of the registered settlement deeds by invoking the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Accordingly, the impugned order is liable to be set aside and the same is set aside.

9. However, it has been brought to the notice of this Court that the petitioners have fairly admitted their obligation to maintain the third respondent. In view of the said submission, while setting aside the impugned order, this Court directs each of the petitioners to pay a sum of Rs.7,000/- (Rupees Seven Thousand only) per month towards the maintenance of the third respondent, on or before the 7th day of every English calendar month. The petitioners shall also clear the arrears of maintenance, if any, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that, in the event of default



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in payment of either the arrears or the future monthly maintenance by any of the petitioners, it is open to the third respondent to work out his remedies before the competent authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, including seeking enforcement of the maintenance obligation, in the manner known to law.

10. With the above observations and directions, these writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

17.07.2026

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



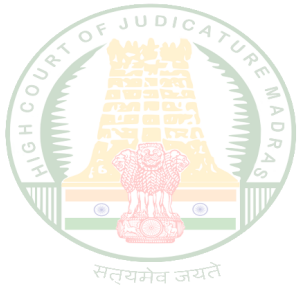
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M.DHANDAPANI,J.

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**ORDER MADE IN
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DATED : 17.07.2026

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