

W.P(MD)No.14051 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.14051 of 2024

P. Pitchaiah

... Petitioner(s)

VS.

1. The Appellate Authority,
Under the Maintenance and Welfare of
Parents and Senior Citizen Act, 2007
Cum The District Collector,
Tenkasi
District,
Tenkasi.

2. The Tribunal Under the Maintenance And Welfare of Parents and
Senior Citizen Act, 2007 Cum the Revenue Divisional Officer,
Tenkasi District,
Tenkasi.

3. The Sub Registrar,
Registration Department,
Tenkasi District,
Tenkasi.

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4. Ponnammal
5. Subbiah
6. Arumugam
7. Subbulakshmi

... Respondent(s)

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue of Writ of Certiorari, calling for the records relating to the Impugned Order passed by the 1st Respondent vide his proceedings in M.M.L1/14071/2022, COLR/3722/2022-B1 dated 16.09.2022 and quash the same.

For Petitioner : Mr. B.Prahalad Ravi

For R1 & R2 : Mr.M.Mahaboob Athiff, Counsel for State

For R4 to R7 : Mr.S.A.Ajmal Khan

ORDER

Challenging the impugned proceedings dated 16.09.2022 passed by the first respondent, the present writ petition has been filed by the petitioner.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the son of the fourth respondent. The fourth respondent had executed an irrevocable Settlement Deed in favour of the petitioner. Subsequently, owing



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to a misunderstanding between the parties, the fourth respondent initiated proceedings before the second respondent under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking cancellation of the said Settlement Deed. It was submitted that the second respondent, upon considering the materials available on record, dismissed the application and declined to cancel the Settlement Deed. Aggrieved by the same, the fourth respondent preferred an appeal before the first respondent. The first respondent, by the impugned order, allowed the appeal and set aside the Settlement Deed. Challenging the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner 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



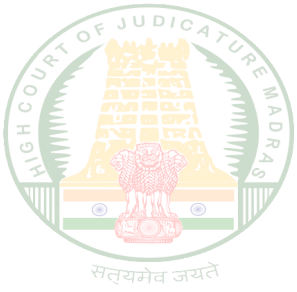
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and the first respondent has no jurisdiction to entertain the complaint or direct cancellation of the settlement deed.

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 respondents 1 and 2 would fairly submit that the registered settlement deed dated 04.09.2013 does not contain any specific condition obligating the petitioner 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.

8. Coming to the facts of the present case, admittedly, the document in question is a registered settlement deed and there is no recital therein imposing

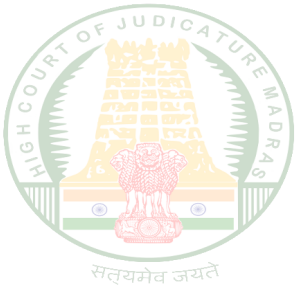


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any obligation upon the petitioner to provide basic amenities and physical needs to the third respondent. Therefore, the essential requirement for invoking Section 23 of the Act is absent. Consequently, the first respondent had no jurisdiction to direct cancellation of the registered settlement deed 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 is brought to the notice of this Court that the petitioner has admitted his obligation to maintain the fourth respondent. Accordingly, while setting aside the impugned order, this Court directs the petitioner to pay maintenance at the rate of Rs.3,000/- (Rupees Five Thousand only) per month to the fourth respondent from the date of filing of the petition before the first respondent till the date of this order. The arrears accrued thereon shall be paid by the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner shall thereafter pay a sum of Rs.5000/- (Rupees Five Thousand only) per month towards maintenance to the fourth respondent on or before the 7th day of every English calendar month. If the petitioner commits default in payment of the arrears or the monthly maintenance,



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it is open to the fourth respondent to work out her remedy before the competent authority under the Maintenance and Welfare of Parents and Senior Citizens Act, including by seeking enforcement of this order, in accordance with law.

10. With the above directions, this writ petition stands allowed. No costs.

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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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