



W.P(MD)No.15198 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.15198 of 2022
and
WMP (MD) No.10893 of 2022

1.Vallipavai
2.Abirami

... Petitioner(s)

vs.

1. The Revenue Divisional Officer,
the Maintenance and Welfare of
Parents and Senior Citizens Tribunal,
Thirumangalam Division,
Madurai.

2.A.Gurusamy

... Respondent(s)

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 and proceedings from the 1st respondent and quash and set aside the impugned order dated 31.05.2022 vide mu.mu.No.4079/2021/A2 .

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For Petitioner : Mr.Babu Rajendran
For R1 : Mr.M.Mahaboob Athiff, Counsel for State
For R2 : Mr.R.Babu Jaganath

ORDER

Aggrieved by the order dated 31.05.2022 passed by the first respondent, whereby the petitioner was directed to pay a sum of Rs.5,000/- per month towards maintenance to the second respondent, the petitioner has filed the present writ petition.

2. The learned counsel appearing for the petitioners would submit that the second respondent, a senior citizen, had executed settlement deeds in favour of his children, including the husband of the first petitioner. It is submitted that, after the death of the first petitioner's husband, the second respondent initiated proceedings before the first respondent seeking cancellation of the settlement deeds. However, during the proceedings, the second respondent did not seek any relief for maintenance. Nevertheless, the first respondent proceeded to direct the petitioners to pay maintenance.



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3. The learned counsel would further submit that the second respondent is financially well-off and owns substantial properties. His other two sons are also financially sound and are enjoying the properties settled in their favour. The first petitioner, on the other hand, is a widow with no independent source of income. Even the property settled in favour of her deceased husband is being enjoyed by the other family members. Without considering the financial status of the second respondent, the properties owned by him and the economic condition of the petitioners, the first respondent mechanically directed the petitioners to pay a sum of Rs.5,000/- per month towards maintenance. It is further submitted that compelling the first petitioner, a widow, to pay maintenance to the second respondent, after the demise of her husband, is wholly unsustainable. Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 makes it clear that maintenance can be ordered only when a senior citizen is unable to maintain himself from his own earnings or property. The authorities below have failed to properly adjudicate this crucial aspect. Accordingly, the learned counsel prayed for allowing the writ petition.



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4. Per contra, learned counsel appearing for the second respondent would submit that the second respondent is a senior citizen who had settled his properties in favour of his children, including the family of the petitioners. However, despite such transfer, none of the beneficiaries are maintaining him. Being unable to maintain himself, the second respondent approached the first respondent seeking appropriate relief. Upon considering the materials available on record, the first respondent rightly directed payment of maintenance. Accordingly, learned counsel prayed for dismissal of the writ petition, insofar as the challenge to the maintenance order is concerned.

5. The learned Counsel for the State appearing for the first respondent would submit that, upon considering the materials placed on record and after affording an opportunity of hearing to the parties, the second respondent, being a senior citizen, required financial assistance for his maintenance. Accordingly, in exercise of the powers conferred under the Act, the first respondent directed the petitioner and another son of the second respondent to pay a sum of Rs.5,000/- each per month towards the maintenance of the second respondent. Accordingly, he prayed for dismissal of the writ petition.



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

7. Admittedly, the second respondent, who is a senior citizen, had executed Settlement Deeds in favour of his children, including the husband of the first petitioner. The first petitioner is now a widow. Insofar as the Settlement Deeds are concerned, 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 where the transfer is made subject to the condition that the transferee shall provide the basic amenities and physical needs of the transferor and the transferee fails to fulfil such condition.

8. In view of the above and having regard to the facts and circumstances of the present case, this Court is inclined to interfere with the impugned order insofar as it directs the first petitioner, who is the widow of the deceased son of the second respondent, to pay maintenance. Accordingly, the



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impugned order dated 31.05.2022 is set aside insofar as the first petitioner is concerned. However, this order shall not affect the direction issued against another son of the second respondent to pay a sum of Rs.5,000/- per month towards the maintenance of the second respondent. Accordingly, the writ petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

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To

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M.DHANDAPANI,J.

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**ORDER MADE IN
W.P(MD)No.15198 of 2022**

**DATED : 09.07.2026
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