



W.P.(MD)No.16655 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.16655 of 2023

and

W.M.P.(MD)Nos.13913 & 13914 of 2023

Renuga

... Petitioner

-VS-

1.The Revenue Divisional Officer cum Maintenance
and Welfare of Parents and Senior Citizens Act Tribunal,
Aruppukkottai,
Virudhunagar District.

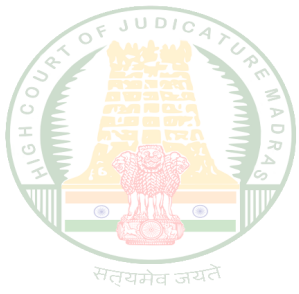
2.The Tahsildar,
Aruppukkottai,
Virudhunagar District.

3.The Sub-Registrar,
Aruppukkottai,
Virudhunagar District.

4.V.Gurusamy

5.Rajaguru

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in Moo.Mu.A2/O.P.No.5/2022 dated 27.01.2023 and to quash the same as illegal and consequently forbearing the respondents 2 and 3 from any way mutating their records kept in their respective officers based upon the impugned order passed by the first respondent.

For Petitioner : Mr.C.Jeyaprakash

For Respondents 1 to 3 : Mrs.K.R.Shivashankari

Counsel for the State of Tamil Nadu

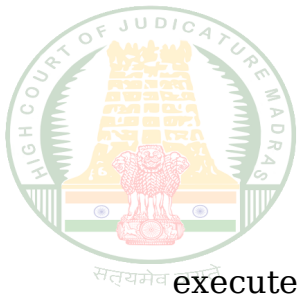
For Respondent No.4 : No appearance

For Respondent No.5 : Mr.T.Thirumurugan

ORDER

Challenging the proceedings of the first respondent in Moo.Mu.A2/O.P.No.5/2022 dated 27.01.2023, the present Writ Petition has been filed.

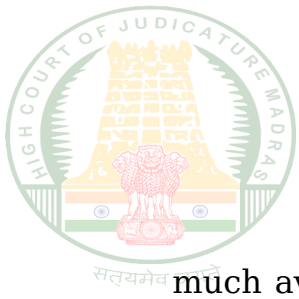
2.The case of the petitioner is that the fourth and fifth respondents are father and son and out of love and affection, the fourth respondent



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executed an irrevocable settlement deed bearing Document No.2942 of 2020 dated 04.07.2020, on the file of the Sub Registrar, Aruppukkottai, respectively, in favour of his son fifth respondent. Thereafter, the fifth respondent executed a sale deed in favour of the petitioner in Document No.2790 of 2021 dated 26.04.2021, for a valid sale consideration, on the file of the Sub Registrar, Aruppukkottai. From the said date of purchase, the petitioner is in absolute possession and enjoyment of the property and has also obtained house tax receipts as well as patta in his name. While so, the fourth and fifth respondents colluded with each other and the fourth respondent initiated proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the first respondent, against the fifth respondent. Pursuant thereto, the fifth respondent wantonly refused to appear before the first respondent for enquiry. However, the first respondent in and by proceedings dated 27.01.2023, cancelled the aforesaid gift settlement deed executed by the fourth respondent in favour of the fifth respondent on the ground that the fifth respondent had failed to maintain his father, the fourth respondent. Aggrieved over the same, the present Writ Petition has been filed.

3.Learned counsel for the petitioner would further submit htat now, the fourth respondent father is no more and the fifth respondent is very

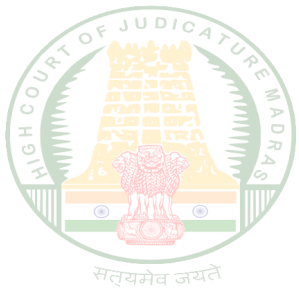


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much available as his legal heir. He also submitted that the issue involved in the present Writ Petition is no longer *res integra*. The aforesaid settlement deed dated 04.07.2020, executed by the fourth respondent father in favour of the fifth respondent is an absolute and irrevocable settlement deed, which cannot be cancelled. He further submitted that Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be invoked only when the transfer is subject to a condition that the transferee shall provide basic amenities and physical needs to the transferor and such condition is breached. In the absence of any such condition in the settlement deed, the authorities under the Act have no jurisdiction to cancel the settlement deed.

4.Learned Counsel has placed reliance upon the decision of the Hon'ble Full Bench in the case of ***Sasikala Vs. Revenue Divisional Officer and another*** reported in ***2022 SCC online Mad 4343***, wherein, it has been 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.



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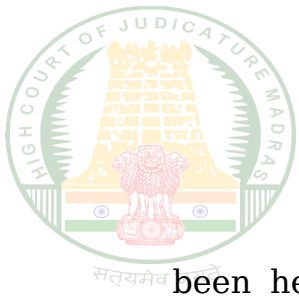
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5.Learned Government Counsel appearing for the official respondents submitted that the impugned order came to be passed on the complaint of the senior citizen alleging failure of maintenance by the petitioner. However, he fairly submitted that the issue is governed by the judgment of the Hon'ble Full Bench of this Court. Hence, this Court may issue appropriate directions in the above regard.

6.Learned Counsel for the fifth respondent did not dispute the fact that the settlement deed executed by the fourth respondent in favour of the fifth respondent is an irrevocable settlement deed.

7.Heard the learned counsel for the petitioner, the learned Government Counsel appearing for the official respondents and the learned Counsel for the fifth respondent and perused the materials available on record.

8.Admittedly, the fifth respondent is the son of the fourth respondent and the petitioner is the purchaser. The issue involved in the present Writ Petition is no longer *res integra*, in view of the judgment of the Hon'ble Full Bench of this Court in ***Sasikala's*** case, as referred to supra, wherein it has



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been held that the power under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be exercised only if the transfer of property has been made subject to the condition that the transferee shall provide basic amenities and physical needs to the transferor and such condition has been violated. In the absence of such a condition in the deed of transfer, the authorities functioning under the Act have no jurisdiction to annul or cancel the transfer. The relevant portion with regard to unilateral cancellation is extracted hereunder;

*“46.The writ petition in W.P. (MD) No. 6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007. The gift deed executed by the second respondent in favour of the writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. The second respondent has specifically stated that he has no right to revoke the settlement deed. From the recitals, the settlement does not attract Section 126 of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. **In other words, the gift deed is not subject to any condition or terms that the transferor shall***



provide the basic amenities and basic physical needs to the second respondent. In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under Section 23 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Therefore, the order impugned is liable to be quashed. Even though we agree that the writ petition can be allowed, this Court is unable to decide the writ petition in this batch where question referred to us is different. Hence, the writ petition in W.P. (MD) No. 6889 of 2020 is de-linked and the Registry is directed to list the matter before the appropriate Bench.” [Emphasis supplied]

9. With regard to the applicability of the Act, this Court in **M.M.Ramesh's case** has held that the Act cannot be given retrospective effect. The relevant portion of the said judgment reads as under:

“11. From the law enunciated in the decisions, referred supra, it is luculent that the Act shall be applicable only to transfer of property after the commencement of the Act and it cannot be given retrospective effect.”

10. In the case on hand, a perusal of the settlement deed 04.07.2020, does not disclose any condition requiring the fifth respondent to maintain



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the executant as as pre-condition for transfer of the properties. Therefore, the essential requirement for involving Section 23(1) of the Act is absent. Consequently, the first respondent could not have exercised the power of cancellation under the Act.

11.In view of the above settled legal position, the impugned proceedings of the first respondent in Moo.Mu.A2/O.P.No.5/2022 dated 27.01.2023 is liable to be set aside.

12.Accordingly, the Writ Petition stands allowed and the impugned orders of the first respondent in Moo.Mu.A2/O.P.No.5/2022 dated 27.01.2023, is hereby quashed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

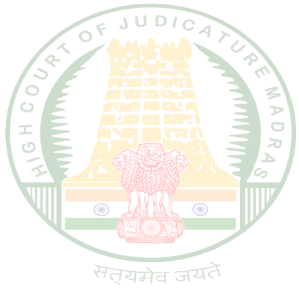
17.07.2026

NCC : Yes / No

Index : Yes / No

Internet: Yes / No

MR



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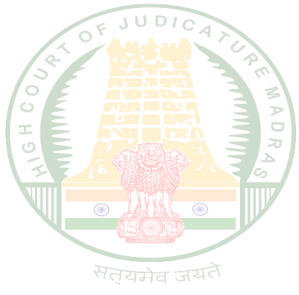
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M.DHANDAPANI, J.

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