

W.P.(MD)Nos.21421 to 21423 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.21421 to 21423 of 2021

and

W.M.P.(MD)Nos.17986, 17988 & 17991 of 2021

and 18766, 18787 & 18792 of 2022

Mookammal	... Petitioner in W.P.(MD)No.21421/21
Ramalakshmi	... Petitioner in W.P.(MD)No.21422/21
Veluthai	... Petitioner in W.P.(MD)No.21423/21

-vs-

1.The Appellate Authority of District Tribunal,
Under the Maintenance & Welfare of
Parents & Senior Citizens Act cum,
The District Collector,
Tenkasi.

2.The Presiding Officer,
Sub Divisional Tribunal,
Under the Maintenance & Welfare of
Parents & Senior Citizens Act cum
The Revenue Divisional Officer,
Tenkasi.



W.P.(MD)Nos.21421 to 21423 of 2021

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... Respondent

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the proceedings issued by the first respondent in his proceedings in Na.Ka.No.K3/10838/2021 dated 10.11.2021 and quash the same.

For Petitioner : Mr.F.X.Eugene

For Respondents 1 & 2 : Mr.M.Mahaboob Athiff,

Counsel for the State of Tamil Nadu

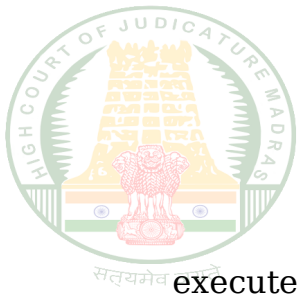
For Respondent No.3 : Mr.R.J.Karthick

[In all Writ Petitions]

COMMON ORDER

Challenging the proceedings of the first respondent in Na.Ka.No.K3/10838/2021 dated 10.11.2021, whereby the registered sale deed executed by the third respondent in favour of the petitioners was cancelled, the petitioners have filed the present Writ Petitions challenging the said order.

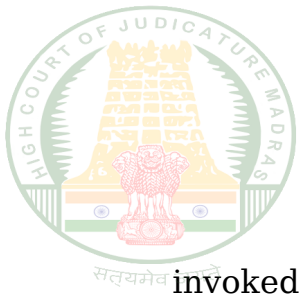
2.The case of the petitioners is that the third respondent is the petitioners' mother and out of love and affection the third respondent



W.P.(MD)Nos.21421 to 21423 of 2021

executed a settlement deed bearing Document No.1583 of 2015 dated 04.09.2015, registered before the Sub-Registrar, Shencottai, in favour of the petitioners. Thereafter, at the instigation of the petitioners' brothers, the third respondent initiated proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the second respondent. Pursuant thereto, the second respondent in and by proceedings dated 11.08.2021, ordered for a monthly maintenance of Rs.2000/- to be paid by the petitioners jointly. Aggrieved by the said order of the second respondent, the third respondent preferred an appeal before the first respondent, who in turn allowed the appeal vide proceedings dated 10.11.2021, cancelling the settlement deed executed by the third respondent in favour of the petitioners, on the ground that the petitioners have failed to maintain their mother. Aggrieved over the same, the present Writ Petitions have been filed.

3.Learned counsel for the petitioners submitted that the issue involved in the present Writ Petitions is no longer *res integra*. The settlement deed dated 04.09.2015, executed by the petitioners' mother in favour of the petitioners is an absolute and irrevocable settlement and the same cannot be cancelled. He further submitted that Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be



W.P.(MD)Nos.21421 to 21423 of 2021

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.In this regard, learned Counsel for the petitioner 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. Accordingly, he prayed for allowing the Writ Petitions.

5.Per contra, learned Counsel for the third respondent would submit that the very same petitioners have filed a partition suit before the Civil Court and hence, the same issue cannot be canvassed before this Court and accordingly, prays for dismissal of these Writ Petitions.



W.P.(MD)Nos.21421 to 21423 of 2021

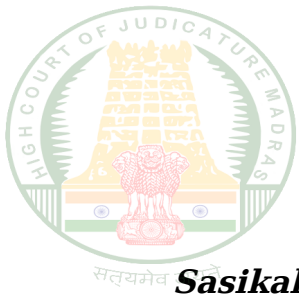
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6. Learned Counsel for the proposed respondents 4 to 8 would submit that subsequent to the cancellation of the settlement deed executed by the third respondent in favour of the petitioners, by the first respondent vide order dated 10.11.2021, the third respondent has executed a sale deed in favour of the proposed respondents 4 to 8 and hence, the same need not be interfered with and accordingly, prays for dismissal of these Writ Petitions.

7. 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.

8. Heard the learned counsel for the parties and perused the materials available on record.

9. Admittedly, the petitioners are the daughters of the third respondent. 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



W.P.(MD)Nos.21421 to 21423 of 2021

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Sasikala's case, as referred to supra, wherein it has 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***



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W.P.(MD)Nos.21421 to 21423 of 2021

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]

10.In the case on hand, a perusal of the settlement deed dated 04.09.2015, does not disclose any condition requiring the petitioners to maintain the executant as a pre-condition for transfer of the property. 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.



W.P.(MD)Nos.21421 to 21423 of 2021

WEB COPY

11.In view of the above settled legal position, the impugned proceedings of the first respondent in Na.Ka.No.K3/10838/2021 dated 10.11.2021 is liable to be set aside.

12.Accordingly, the Writ Petitions stand allowed and the impugned order of the first respondent dated 10.11.2021 is hereby quashed. However, while setting aside the impugned order, this Court directs the petitioners to pay a sum of Rs.2,000/- per month towards maintenance to 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. If the petitioners commit default in payment of either the arrears or the future monthly maintenance, it is open to the third respondent to work out her remedy before the competent authority under the Maintenance and Welfare of Parents and Senior Citizens Act, including seeking enforcement of the maintenance order, in accordance with law. The proposed respondents 4 to 8 are granted liberty to work out their remedy before the Civil Court in the manner known to law. There shall be no order as to costs. Consequently, C.M.P.(MD)Nos.18766, 18787 & 18792 of 2022 stand



W.P.(MD)Nos.21421 to 21423 of 2021

dismissed and C.M.P.(MD)Nos.17986, 17988 & 17991 of 2021 stand closed.

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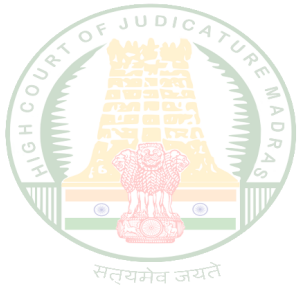
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NCC : Yes / No

Index : Yes / No

Internet: Yes / No

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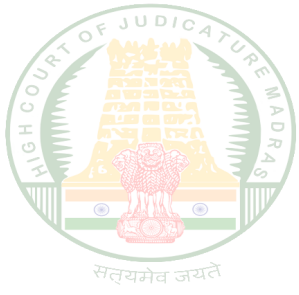
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W.P.(MD)Nos.21421 to 21423 of 2021

M.DHANDAPANI, J.

MR

W.P.(MD)Nos.21421 to 21423 of 2021

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