

W.P.(MD)No.24288 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.07.2026

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.24288 of 2023

and

W.M.P.(MD).No.20477 of 2023

P.Sakthivel

...Petitioner

Vs

- 1.The District Collector Cum Appellate Authority,
the Maintenance and Welfare of Parents
and Senior Citizens Appellate Tribunal,
Madurai District.
- 2.The Revenue Divisional Officer Cum Executive Magistrate,
the Authority Under the Maintenance
and Welfare of Parents and Senior Citizens Act,
Madurai.
- 3.The District Registrar,
Madurai District,
Madurai.
- 4.The Sub-Registrar,
The Joint Sub-Registrar No.1,
Madurai North,
Madurai District.



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5. Periyasamy. I

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the first respondent in Mu.Mu. No.C6/36437/2022 dated 30.08.2023 confirming the impugned order passed by the second respondent in Mu.Mu. No. 1888/2022/J, dated 27.05.2022 and to quash the same as arbitrary and illegal.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.M.Mahaboob Athiff,
Counsel for State-for R1 to R-4

No Appearance for R-5

ORDER

Aggrieved by the order passed by the first respondent in Mu.Mu. No.C6/36437/2022 dated 30.08.2023 confirming the impugned order passed by the second respondent in Mu.Mu. No.1888/2022/J, dated 27.05.2022, whereby the registered settlement deed executed by the fifth respondent in favour of the petitioner was cancelled, the petitioner has filed the present writ petition challenging the said order.

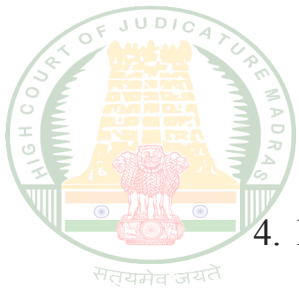
2. The learned counsel appearing for the petitioner would submit that the petitioner is the son of the fifth respondent. The fifth respondent executed a registered settlement deed dated 15.07.2021 in favour of the petitioner in respect of the subject property. Subsequently, the fifth respondent made an



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application before the second respondent seeking cancellation of the said settlement deed. The second respondent, by the impugned order dated 27.05.2022, observed that the petitioner had failed to take care of the fifth respondent and consequently directed cancellation of the settlement deed. Thereafter, the petitioner filed an appeal before the first respondent and the first respondent dismissed the appeal filed by the petitioner and confirmed the order passed by the second respondent on 30.08.2023. Challenging the same, the present writ petition has been filed before this Court.

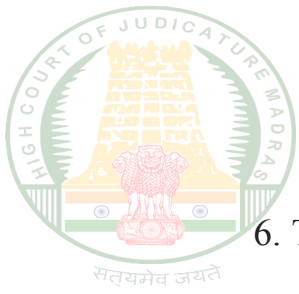
3. The learned counsel for the petitioner would submit that the authorities under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, have jurisdiction under Section 23 only in respect of transfers by way of gift or settlement, where the transfer is subject to a condition that the transferee 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 and the first and second respondents have no jurisdiction to entertain the complaint or direct cancellation of the settlement deed.



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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 order passed by the first respondent in Mu.Mu. No.C6/36437/2022 dated 30.08.2023 confirming the impugned order passed by the second respondent in Mu.Mu. No. 1888/2022/J, dated 27.05.2022 is wholly without jurisdiction and liable to be quashed.

5. The learned Counsel for the State appearing for the respondents 1 to 3 would fairly submit that the registered settlement deed dated 15.07.2021 does not contain any specific condition obligating the petitioner to provide basic amenities and physical needs to the fifth 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 any obligation upon the petitioner to provide basic amenities and physical needs to the fifth respondent. Therefore, the essential requirement for invoking

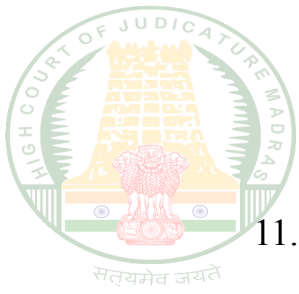


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Section 23 of the Act is absent. Consequently, the first and second respondent had no jurisdiction to direct cancellation of the registered settlement deed by invoking the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Accordingly, the impugned order of the first respondent in Mu.Mu. No.C6/36437/2022 dated 30.08.2023 confirming the impugned order passed by the second respondent in Mu.Mu. No.1888/2022/J dated 27.05.2022 is liable to be set aside and the same is set aside.

9. However, this Court cannot lose sight of the fact that the fifth respondent is a senior citizen and that this Court by an order dated 06.10.2023 directing payment of maintenance at the rate of Rs.3,000/- per month to the fifth respondent. Having regard to the age and needs of the fifth respondent and the obligation of the petitioner, being his son, to maintain him, this Court is of the considered view that the maintenance amount requires enhancement.

10. Accordingly, the petitioner/son is directed to pay a sum of Rs.8,000/- (Rupees Eight Thousand only) per month towards the maintenance of the fifth respondent. The said amount shall be paid on or before the 7th day of every English calendar month, commencing from the succeeding month.



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11. The petitioner is further directed to pay the entire arrears of maintenance calculated at the rate of Rs.3000/- per month, in terms of the earlier order dated 06.10.2023, within a period of four (4) weeks from the date of receipt of a copy of this order, if the same has not already been paid.

12. With the above observation and direction, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC : Yes/No

Index : Yes/No

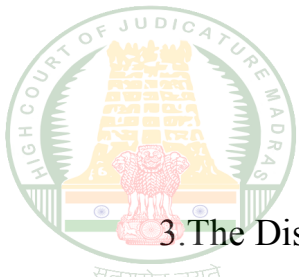
Internet: Yes/No

TSG

To

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the Maintenance and Welfare of Parents
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Madurai District.

2.The Revenue Divisional Officer Cum Executive Magistrate,
the Authority Under the Maintenance
and Welfare of Parents and Senior Citizens Act,
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3.The District Registrar,
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4.The Sub-Registrar,
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M.DHANDAPANI, J.

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