



W.P(MD)No.27394 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.27394 of 2023

and

WMP (MD) No.23534 of 2023

C.Nagalakshmi

... Petitioner(s)

vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Revenue Divisional Officer,
Aruppukottai Division,
Aruppukottai,
Virudhunagar District.

3. The Sub Registrar,
Kariyapatti Sub Registration,
Kariyapatti,
Virudhunagar District.

4. The President,
Aaviyoor Village,
Aaviyoor,
Virudhunagar District.



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5. Murugesan

6. M.Subramani

7. Selvamani

... Respondent(s)

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Declaration, declaring the 2nd respondents order dated 20.01.2023 in Mu.Mu.A2/5707/2022 ordered to cancel the Gift Settlement Deed in Document No. 3588/2021 dated 21.10.2021 on the file of the 3rd respondent is null and void.

For Petitioner	: Mr.A.Jeyaram
For R1 to R3	: Mr.R.Ramasamy, Counsel for State
For R5 & R7	: Mr.S.Prabhu
For R4 & R6	: No appearance

ORDER

This writ petition has been filed for issuance of a Writ of Declaration, declaring the order of the second respondent dated 20.01.2023 in Mu.Mu.A2/5707/2022 ordered to cancel the Gift Settlement Deed in Document No. 3588/2021 dated 21.10.2021 on the file of the third respondent is null and void.



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2. The learned counsel appearing for the petitioner submitted that the petitioner is a subsequent purchaser of the subject property. The fifth respondent is the father of the sixth and seventh respondents. The fifth respondent executed an irrevocable Settlement Deed in favour of the sixth and seventh respondents, registered as Document No.3588 of 2021, dated 21.10.2021. Thereafter, the sixth respondent sold the subject property to the petitioner under a Sale Deed dated 29.12.2022, registered as Document No.4726 of 2022 on the file of the Sub-Registrar, Kariyapatti. It is the further submission of the learned counsel for the petitioner that, subsequently, in collusion with respondents 6 and 7, the fifth respondent preferred a complaint before the second respondent under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking cancellation of the Settlement Deed. Without issuing any notice to the petitioner, who had already purchased the property and acquired a valuable right therein, the second respondent, by order dated 20.01.2023, cancelled the Settlement Deed. Aggrieved by the said order, the present Writ Petition has been filed.



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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 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.



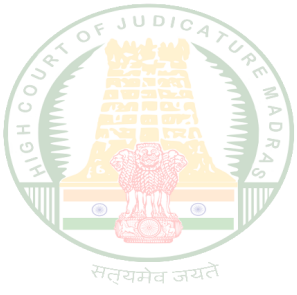
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5. The learned Counsel appearing for the respondents 5 and 7 would fairly submit that the registered settlement deed dated 21.10.2021 does not contain any specific condition obligating the petitioner to provide basic amenities and physical needs to 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.

6. This Court has carefully considered the submissions on either side and perused the materials placed on record. Though the name of the sixth respondent is printed in the cause list, there is no representation on behalf of the respondents 4 and 6.

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



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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 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.



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9. However, it is brought to the notice of this Court that the petitioner has admitted his obligation to maintain the fifth respondent. Accordingly, while setting aside the impugned order, this Court directs the sixth respondent to pay a sum of Rs.5,000/- per month towards maintenance to the fifth respondent, on or before the 7th day of every English calendar month. If the petitioner commits default in payment of the monthly maintenance, it is open to the fifth respondent to work out his 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.

10. With the above observations and directions, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

27.07.2026

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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DATED : 27.07.2026