



W.P(MD)No.27348 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.27348 of 2023
and W.M.P.(MD).Nos.23491, 23495 of 2023 and 4499 of 2024

J.Vinitha

... Petitioner

Vs

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The District Revenue Officer,
Thoothukudi,
Thoothukudi District.

3.The Presiding Officer/Revenue Divisional Officer,
the Senior Citizens Maintenance and Welfare Tribunal,
Kovilpatti,
Thoothukudi District.

4.Saraswathi.J

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the third respondent in her proceedings in M.M.A3/1302/2022 dated 12.07.2022 and quash the same.

For Petitioner : Ms.Porkodi Karnan,
for M/s. Polax Legal Solutions

For R-1 to R-3 : Mrs.K.R.Shivashankari, Counsel for State

For R-4 : No Appearance

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent dated 12.07.2022.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the daughter-in-law of the fourth respondent. The fourth respondent executed a registered gift settlement deed dated 29.02.2016 in favour of the petitioner's husband in respect of the subject property. Subsequently, the husband of the petitioner died. Thereafter, the fourth respondent made an application



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before the third respondent seeking cancellation of the said gift settlement deed executed in favour of the petitioner's husband. The third respondent, by the impugned order dated 12.07.2022, observed that the petitioner had failed to take care of the fourth respondent and consequently directed cancellation of the gift settlement deed. Thereafter, the petitioner filed an appeal before the first respondent and the same was rejected that the petitioner will not come under the definition of Parent or senior citizen as per Section 16(1) of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. Challenging the impugned order passed by the third respondent dated 12.07.2022, the present writ petition has been filed before this Court.

4. 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



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and the third respondent has no jurisdiction to entertain the complaint or direct cancellation of the settlement deed.

5. 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 12.07.2022 is wholly without jurisdiction and liable to be quashed.

6. The learned counsel for State appearing for the respondents 1 to 3 fairly submitted that the registered gift settlement deed executed by the fourth respondent does not contain any condition requiring the petitioner to provide maintenance or basic amenities to the fourth respondent. He would further submit that, in the absence of such a condition, the authorities cannot invoke Section 23 of the Act to cancel the settlement deed. However, he submitted that the authorities are empowered under the Act to determine and award a reasonable amount towards maintenance, if the facts so warrant.



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7. The learned counsel appearing for the petitioner would submit that the petitioner and her children are now under the care and custody of their parents. Hence, she is not able to pay any maintenance to the fourth respondent.

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

9. The issue involved in the present writ petition 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 categorically held that the deeming fiction contained in Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, can be invoked only when the transfer has been made subject to the condition that the transferee shall provide the basic amenities and physical needs to the transferor and the transferee has failed to fulfil such condition. In the absence of an express condition incorporated in the deed of transfer, the authorities constituted under the Act have no jurisdiction to declare such transfer as void or to cancel the same.



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10. Coming to the facts of the present case, admittedly, the document in question is a registered gift settlement deed and there is no recital therein imposing any obligation upon the petitioner to provide basic amenities and physical needs to the fourth respondent. Therefore, the essential requirement for invoking Section 23 of the Act is absent. Consequently, the third 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.

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

20.07.2026

NCC : Yes / No
Index : Yes / No
TSG



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M.DHANDAPANI, J.

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