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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on	26.09.2023
Judgment Pronounced on	06.11.2023

CORAM:

The Hon'ble **Mr. Justice S.VAIDYANATHAN**
and
The Hon'ble **Mr. Justice SENTHILKUMAR RAMAMOORTHY**

W.A.Nos.374 & 376 of 2020
&
CMP Nos.6248 & 6252 of 2020 in WA.No.374 of 2020
&
CMP Nos.6251 & 6253 of 2020 in WA.No.376 of 2020

W.A.No.374 of 2020

D.Devi ... Appellant/Petitioner

v.

1. The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai-600 004.
2. The Sub-Registrar,
Office of the Sub-Registrar,
Udumalpet, Tiruppur District.
3. V.Durairaj



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4. K.Paramasivam

... Respondents/Respondents

W.A.No.376 of 2020

D.Devi

... Appellant/Petitioner

v.

1. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

2. The Sub-Registrar,
Office of the Sub-Registrar,
Udumalpet,
Tiruppur District.

3. V.Durairaj

... Respondents/Respondents

COMMON PRAYER IN BOTH WAs: Writ Appeals are filed under Clause 15 of Letters Patent, to set aside the order dated 22.11.2019 made in W.P.Nos.10849 & 26810 of 2017 passed by this Court by allowing these writ appeals.

For Appellant : Mrs.Hema Sampath, Senior Counsel,
for Mr.D.R.Arunkumar

For Respondent : Mr.S.John J.Raja Singh,
Addl. Govt. Pleader for R1 and R2
Mr.N.Umapathy for R3



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COMMON JUDGMENT

S. Vaidyanathan J.
and
Senthilkumar Ramamoorthy J.

Background

These two writ appeals are directed against the common order dated 22.11.2019 in W.P.Nos.10849 and 26810 of 2017. The appellant was the petitioner in the said writ petitions. In W.P.No.10849 of 2017, the petitioner assailed the cancellation deed dated 14.12.2012 bearing document No.8693 of 2012 executed by the third respondent (the Cancellation Deed) to cancel the settlement deed dated 25.08.2009 bearing document No.5815 of 2009 (the Settlement Deed) in respect of the property ad-measuring 4950 sq.ft. in T.S.No.8, Ward No.9, Block No.14 at Kanagapalayam Village in S.No.138/1A, Sub Division 138/1A1A at No.27, Sardar Street Extension, Udumalpet Taluk, Tiruppur District (the Property), and prayed that the sale agreement dated 12.12.2016 bearing document No.9430 of 2016 (the Sale



Agreement) be quashed. The second limb of the prayer was, however, rendered infructuous by the cancellation of the Sale Agreement on 10.05.2017. In W.P.No.26810 of 2017, the petitioner challenged the proceedings of the first respondent/Revenue Divisional Officer (the RDO) culminating in order dated 27.09.2017 in Na.Ka.No.2194/2017/A3 endorsing the cancellation. The Writ Court dismissed both the writ petitions with costs of Rs.15,000/-.

2. The petitioner is the daughter of the third respondent, Mr.V.Durairaj. The third respondent purchased the Property under a registered sale deed dated 15.12.1986 on the file of the Sub Registrar, Udumalpet. Thereafter, he settled the said property in favour of his daughter / petitioner/ appellant herein under the Settlement Deed. Later, the appellant came to know that her father unilaterally cancelled the Settlement Deed by the Cancellation Deed. The appellant also came to know that the third respondent executed the Sale Agreement in favour of one Paramasivam. W.P.No.10849 of 2017 was filed, in those facts and circumstances, to assail the above documents.



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3. Shortly after W.P.No.10849 of 2017 was filed, in July 2017, the third respondent filed a petition under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (the Senior Citizens Act) before the Tribunal constituted under the Senior Citizens Act, i.e. the first respondent/RDO, Udumalpet. In the said petition, the third respondent alleged that the appellant did not maintain her parents and, therefore, requested the first respondent/RDO to declare that the Settlement Deed executed in favour of the appellant is void. By order dated 27.09.2017, the first respondent held that the Settlement Deed is invalid. W.P.No.26810 of 2017 was filed challenging the said order. While dismissing the writ petitions, the Writ Court noticed Section 23 of the Senior Citizens Act and accepted the contention of the third respondent that the petitioner/appellant had not taken care of her parents. On the basis of the said conclusion, the Writ Court held that the cancellation of the Settlement Deed was valid and that the petitioner had not made out a case to interfere with such cancellation or with the order of the first respondent in respect



thereof.

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Counsel and their contentions

4. Oral submissions on behalf of the appellant were advanced by Mrs.Hema Sampath, learned senior counsel, assisted by Mr.D.R.Arunkumar, learned counsel; on behalf of the third respondent by Mr.N.Umapathy; and Mr.S.John J. Raja Singh, learned Additional Government Pleader, appeared on behalf of the official respondents.

5. Mrs.Hema Sampath, learned senior counsel, invited our attention to the Settlement Deed and submitted that it was executed on 25.08.2009. By drawing reference to the PAN card of the third respondent, she pointed out that he was born on 19.12.1950 and, therefore, he was only 58 years old when the Settlement Deed was executed. By further submitting that the benefit of Section 23 of the Senior Citizens Act is available only to a person who is a senior citizen on the date of the execution of the relevant transfer deed, she submitted that such requirement was not satisfied in the present case. Her next contention was that it is



an essential pre-requisite under Section 23 that the transfer should be subject to the condition that the transferee should provide basic amenities and basic physical needs to the transferor and thereafter fail to do so. With specific reference to the clauses of the Settlement Deed, learned senior counsel submitted that the Settlement Deed does not stipulate that the appellant was required to provide for the basic amenities or physical needs of the settlor.

6. Learned senior counsel also submitted that the appellant had paid the property and water taxes and charges in respect of the Property from the date of execution of the Settlement Deed. She submitted that the appellant had paid for the foreign travel of her parents; her mother's eye operation; and to settle her father's loans. She also submitted that the appellant's father has sufficient money for his basic amenities and physical needs but is engaging in trade on the stock market and requires money for such purpose.

7. In support of these submissions, the following



judgments were relied on:

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- (i) *Latif Estate Line India Limited v. Hadeeja Ammal and others*, 2011 (2) CTC 1 (FB)
- (ii) *B. Shanmugasundaramurthy v. The Sub-Registrar and others*, MANU/TN/1328/2011
- (iii) *P.A.G. Kumaran v. Inspector-General of Registration* 2017 (2) CWC 796
- (iv) *Gurusamy (Died) and others v. Palaniammal and others* 2020 (5) CTC 903.
- (v) *J. Jayanithaa v. Inspector General of Registration and others* 2021 (1) CTC 839.
- (vi) *Sudesh Chhikara v. Ramti Devi and others (Sudesh Chhikara)* 2022 SCC OnLine SC 1684.

8. For reasons set out above, learned senior counsel contended that the Cancellation Deed, the Sale Agreement and the RDO's order are not in consonance with the Senior Citizens Act and, therefore, liable to be quashed. As a corollary, she concluded her submissions by submitting that the order of the Writ Court calls for interference.

9. In response to these submissions, learned counsel for



the third respondent submitted that the object and purpose of the Senior Citizens Act should be taken into consideration while interpreting the statute. Learned counsel submitted that the object and purpose of the enactment is to ensure that parents and senior citizens are provided for and looked after by their children. As regards Section 23, learned counsel submitted that there is an implied condition that the beneficiary of the settlement would provide for the basic amenities of the settlor and if the settlee fails to do so, the settlor is entitled to unilaterally cancel such settlement. Since the appellant failed to provide basic amenities to the settlor, learned counsel submitted that such implied condition was breached and that the cancellation of the settlement is valid. In any event, learned counsel submitted that the cancellation was not unilateral and was supported by the order dated 27.09.2017 of the first respondent.

Discussion, analysis and conclusions

10. By taking into account the fact that the dispute is



between daughter and father, we requested the parties, on more than one occasion, to resolve the dispute amicably. Towards that end, we also appointed a mediator. In spite of such efforts, the mediation failed and the dispute could not be resolved. In course of proceedings, we also suggested that the appellant should pay a reasonable sum per month as maintenance to her parents. However, parties could not reach an agreement. The matter is being adjudicated on merits against this background.

11. The case hinges on the interpretation of Section 23 of the Senior Citizens Act. Such interpretation is required to be made in the context of the Settlement Deed. The Settlement Deed, in relevant part, is as under:

“ செட்டில்மெண்ட் ஆவணம்

நீ எனக்கு மகள் ஆக வேண்டும். உன்மீது எனக்குள்ள இயற்கை அன்பினாலும், பிரியத்தினாலும் உனக்கு ஓர் நிலையான சொத்துப் பொறுப்பை ஏற்படுத்தி வைக்கவேண்டும் என நான் விரும்புவதாலும் எனக்கு கடந்த 15.12.1986 ஆம் தேதியில் ஏற்பட்டதும், உருமலைப்பேட்டை சார்பதிவாளர் அலுவலக 1.1689.51.55.2884/1986 ஆம் எண்ணாகப் பதிவு செய்யப்பட்ட கிரைய ஆவணப்படி சுயார்ஜித வகையில் பாத்தியப்பட்ட இடம் மற்றும் வீடு



வகையராச் சொத்துக்களை இந்த செட்டில்மெண்ட் ஆவணத்தின் மூலம் உனக்குப் பாத்தியப்படுத்திக் கொடுத்து இன்றே மேற்படி சொத்துக்களையும் உன் வசம் சுத்த சுவாதீனமும் ஒப்படைப்பும் செய்து கொடுத்துவிட்டேன். இன்றுமுதல் நீயே மேற்படி சொத்துக்களை அடைந்து சர்வ சுதந்திர பாத்தியத்துடன் தானாதி வினியோக விற்கிரையங்களுக்குத் தகுதியாய் ஆண்டனுபவித்துக் கொள்ள வேண்டியது. இனி மேற்படி சொத்தைக் குறித்து எனக்காவதும் என்னுடைய இதரவாரிசுகளுக்காவதும் யாதொரு பாத்தியமும் சம்பந்தமும் பின்தொடர்ச்சியும் கிடையாது. நான் மேற்படி சொத்தை யாதொரு வில்லங்க விவகாரங்களுக்கும் உட்படுத்தவில்லை என்றும் உட்பட்டதல்லவென்றும் உன்னை நம்பும்படி உறுதி கூறுகின்றேன். மேற்படி சொத்தின் பட்டா, வரிவிதிப்பு, மின்இணைப்பு, குடிநீர்குழாய் இணைப்பு ஆகியவற்றை உன் பெயரில் மாற்றிக்கொள்ள தக்க மனுக்களில் கையெழுத்துச் செய்து கொடுத்துள்ளேன். இந்த செட்டில்மெண்ட் ஆவணத்தை நான் எக்காலத்திலும் ரத்து செய்வதில்லை என்றும் அது மீறி நான் ரத்து செய்தாலும் அது எந்த நியாய ஸ்தலத்திலும் செல்லத்தக்கதல்ல என்றும் உறுதி கூறுகின்றேன். இந்தப்படிக்கு நான் என் மனப்பூர்வ சம்மதத்துடன் எழுதிக் கொடுத்த செட்டில்மெண்ட் ஆவணமாகும்.”

12. The above clauses of the Settlement Deed indicate that the settlement was made in favour of the appellant, who is the settlor's daughter, out of love and affection so as to provide her with an asset. The document makes reference to the acquisition of



title over the Property by the settlor under a sale deed. The Settlement Deed further records that possession has been handed over to the settlee and that neither the settlor nor his legal heirs would have any rights in respect thereof. Significantly, the Settlement Deed does not contain a stipulation that the settlee should provide basic amenities and basic physical needs to the settlor and, on the contrary, specifies that the settlor has no right to cancel the Settlement Deed at any point of time and that any such cancellation would not be valid.

13. As indicated earlier, the interpretation of Section 23 is central to this dispute. Section 23 is set out below:

23. Transfer of property to be void in certain circumstances. – (1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs,



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the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.(emphasis added)

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.

From the above provision, it follows that Section 23 can be invoked only if certain conditions are satisfied. The said conditions are:

(i) A senior citizen should transfer the



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property by way of a gift or otherwise.

(ii) Such transfer should be after the commencement of the Senior Citizens Act.

(iii) Such transfer should be on condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and the transferee should refuse or fail to provide such amenities and physical needs.

The text of the provision also clearly indicates that the above conditions are cumulative. If all the above conditions are satisfied, the legal fiction is triggered by virtue of which it is deemed - and, therefore, need not be proved - that the transfer is vitiated by fraud or coercion or undue influence. Consequently, the transferee gets the option to avoid the transfer by having the same declared void by the Tribunal formed under the Senior Citizens Act.

14. Under the Indian Contract Act, 1872 (the Contract Act), a contract executed without free consent is voidable and may



be avoided at the option of and by the party whose consent was not free. Sections 15 to 18 of the Contract Act deal with the factors which vitiate consent and these factors are coercion, undue influence, fraud and misrepresentation. The burden of establishing that consent was vitiated by one or more of the above factors is imposed on the person who seeks to avoid the contract on the above grounds. Although a gift is a conveyance and not a mere contract, Section 126 of the Transfer of Property Act, 1882 (the Transfer of Property Act) prescribes that a gift may be revoked on the same grounds on which a contract may be rescinded. Consequently, Sections 15 to 19-A of the Contract Act become applicable to a gift, which is the legal term for a settlement.

15. Section 3 of the Senior Citizens Act incorporates a *non obstante* clause giving overriding effect to the Senior Citizens Act to the extent any other enactment is inconsistent therewith. On examining Section 23 of the Senior Citizens Act in the context of Sections 15 to 19-A of the Contract Act, it follows that absence of free consent need not be established by a senior citizen. Effectively,



a legal fiction is incorporated in Section 23 whereby it is deemed that the transfer of property was made by fraud or coercion or under undue influence if the three conditions discussed in paragraph 12 above are satisfied in respect of the said transfer. Whether the transfer under the Settlement Deed satisfies the above conditions is discussed next.

16. The Settlement Deed was executed on 25.08.2009, which is after the Senior Citizens Act came into force on 29.12.2007. Therefore, the first condition with regard to the transfer being after the commencement of the statute is satisfied. The second requirement is that the transferor should be a senior citizen as on the date of the transfer. This requirement is evident from the expression "*where any senior citizen...has transferred by way of gift or otherwise*". The expression 'senior citizen' is defined in Section 2(h) of the Senior Citizens Act as under:

"(h) "senior citizen" means any person being a citizen of India, who has attained the age of



sixty years or above"

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The third respondent is a citizen of India. As per the PAN card of the third respondent, he was born on 19.12.1950. Therefore, on the date of execution of the Settlement Deed, he had completed only 58 years and was not a senior citizen. Thus, the second condition does not appear to be satisfied. Nonetheless, it could be contended with a fair measure of justification that the statute should be construed liberally because it is intended to benefit parents and senior citizens. There are two ways in which the provision could be interpreted widely: first, by construing the words "senior citizen" in Section 23 as including a parent; and secondly, by holding that Section 23 may be invoked if the person invoking it is a senior citizen on the date the provision is invoked even if not a senior citizen as on the date of transfer. In order to decide whether the expression "senior citizen" in Section 23 may be reasonably construed in either of the two ways indicated above, we propose to consider other provisions of the statute next.



17. We notice that the statute defines the terms “parent” and “senior citizens”, separately. As with all definitions, we also notice that the definition is subject to the qualifier “unless the context otherwise requires”. Parent is defined in Section 2(d) as under:

“(d) “parent” means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen;

If Section 2(h) is compared and contrasted with Section 2(d), it becomes evident that “senior citizens” are defined as any Indian citizens above the age of 60 and such definition is agnostic as to whether such “senior citizens” are parents; whereas, “parent” is defined as biological, adoptive or step father or mother, whether or not a senior citizen. Section 4(1) of the statute, which deals with maintenance of parents and senior citizens, uses the expression “a senior citizen including parent”, thereby making it abundantly clear that the right to maintenance is available to a parent, whether or not such parent is a senior citizen, and to a senior citizen.



Clause (ii) of sub-section (1) of Section 4 also makes it clear that a childless senior citizen may make a claim against a relative as defined in Section 2(g), i.e. “a legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death”, thereby indicating clearly that a senior citizen, who is not a parent, may claim maintenance in specified circumstances. Section 23, in contrast to Section 4, uses the expression “senior citizen” but not “parent”. From the above discussion, it follows that Parliament has consciously defined and used the terms “senior citizens” and “parent” separately and distinctively and that Section 23 has to be understood as defined, i.e. as conferring the benefit thereof only on any Indian citizen above the age of 60, whether or not a parent, subject to satisfaction of the other requirements thereof. As a corollary, neither text nor context support reading the expression “senior citizen” in Section 23 as including a parent below the age of 60 years.

18. Turning to the question whether Section 23 may be invoked by a person who had not completed the age of 60 on the



date of transfer but did so prior to or on the date of resorting to such provision, the text of Section 23 uses the expression “ where any senior citizen ... has transferred”, thereby indicating that the person should be a senior citizen on the date of transfer. Even otherwise, it should be recognised that the absence of free consent on account of fraud, coercion or undue influence is a formation defect. Consequently, the existence of such formation defect is required to be tested as of the date of transfer. Besides, it should not be lost sight of that Section 23 incorporates by legal fiction a deemed lack of free consent and constitutes an exception to the general rule under the Contract Act that the absence of free consent should be established by the person making the said allegation. Therefore, we conclude that Parliament has provided the benefit of the legal fiction of deemed absence of free consent only to Indian citizens who were above the age of sixty years on the date of execution of the instrument of transfer, perhaps in recognition of the fact that older people are vulnerable and often susceptible to undue influence by their children or near relatives.



19. The third condition under Section 23 is that the transfer should be made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor. As discussed earlier, the Settlement Deed does not contain any indication that the transfer was made subject to such condition. In fact, there are clear indications to the contrary by expressly providing that the transferor does not have the right to cancel the settlement at any time and that any such cancellation would not be valid. On this issue, the Hon'ble Supreme Court held in *Sudesh Chhikara*, in paragraph 14 and, in relevant part in paragraph 15, as under:

“14. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the



Tribunal.

15. *Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor – senior citizen is sine qua non for applicability of sub-section (1) of Section 23....”*

20. The Writ Court, in paragraph 8 of the common order, recorded in relevant part, as under:

“ 8. *It is not in dispute that the third respondent had executed a Settlement Deed dated 25.08.2009 in favour of his own daughter/the petitioner herein with a promise that she would maintain her father till his lifetime by providing all the facilities which he had enjoyed till the execution of said Settlement Deed....”*

As discussed earlier, the above conclusion is not in consonance with the provisions of the Settlement Deed. It is, consequently, also not in conformity with the law laid down in *Sudesh Chhikara*. Another aspect should also be noticed: Section 23 enables a “senior citizen” to approach the Tribunal for a declaration that the instrument of transfer is void, but not to unilaterally cancel the



transfer. In this case, the third respondent executed the Cancellation Deed to unilaterally cancel the Settlement Deed. In view of the foregoing discussion and for reasons set out above, the unilateral cancellation of the Settlement Deed by the Cancellation Deed is invalid.

21. The chronology of events clearly indicate that the Cancellation Deed and the Sale Agreement were challenged in April 2017 by filing W.P.No. 10849 of 2017. The appellant's father was the third respondent therein. After the said writ petition was filed, in July 2017, the appellant's father filed a petition under Section 23 of the Senior Citizens Act. In the counter of the appellant before the RDO, the writ petition was referred to. Although the RDO's order dated 27.09.2017 refers to the writ petition, it strangely records that the appellant's father is not a party to the writ petition, and that no stay order was issued by the Writ Court. When the Writ Court was seized of the matter relating to the validity of the Cancellation Deed and Sale Agreement and this fact was known to the RDO, the RDO should not have



entertained the petition. This impropriety itself justifies quashing the proceedings of the RDO. In any case, the said order is entirely unsustainable for reasons set out in the preceding paragraphs. As a corollary, the impugned order of the Writ Court upholding the cancellation and the RDO's order also warrants interference. The documents on record disclose that a sale deed was executed by the III Additional Judge, Dharapuram, in favour of a third party pursuant to an *ex parte* decree. This was subsequently reversed by the sub-registrar pursuant to interim orders passed in contempt proceedings. Since we have categorically held that the ownership of the Property continues to vest in the appellant, we restrain the appellant's father from, directly or indirectly, alienating, encumbering or otherwise dealing with or disposing of the Property.

22. Notwithstanding the above conclusions, one aspect remains to be considered: the right to maintenance of the third respondent and his wife. In paragraph 9 of the common order of the Writ Court, it was noticed that the obligation to provide



maintenance exists even *de hors* the settlement. This conclusion is unexceptionable. As briefly discussed earlier, the Senior Citizens Act also provides for the maintenance of parents and senior citizens. Section 4 of the Senior Citizens Act is as under:

4. Maintenance of parents and senior citizens. –

(1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of –

(i) parent or grand-parent, against one or more of his children not being a minor;

(ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the



property of such citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property."

23. The text of Section 4 clearly indicates that the right to maintenance extends not only to a senior citizen but to any parent. The obligations under Section 4 are imposed on the children of such senior citizen or parent and, in certain instances, on the relative of the senior citizen. Such obligation is triggered when the senior citizen is unable to maintain himself from his own earning or out of the property owned by him. In response to a question, the third respondent stated that he did not own any immovable property, other than the property forming the subject of the settlement. He also asserted that the appellant had not provided any maintenance to him. The appellant denied this assertion and adverted to payments made for the foreign travel of her parents; her mother's eye surgery; and to settle her father's loan. These assertions are also contained in the counter filed in proceedings



before the RDO and in the affidavit in support of W.P. No.26810 of 2017. Be that as it may, there is no proof of payment of any money by the appellant to her parents on a monthly basis. In fact, in the counter affidavit of the third respondent to C.M.P. Nos. 6251 and 6253 of 2020 in W.A. No. 376 of 2020, there is reference to an order of the Appellate Tribunal to pay monthly maintenance of Rs.10000/- to the appellant's mother and to a writ petition (W.P. No.26055 of 2018) challenging such order. Significantly, there is no evidence that payment is being made pursuant to this order.

24. Ordinarily, a senior citizen or a parent desiring maintenance is required to file an application under Sections 4 and 5 of the Senior Citizens Act. In this case, the third respondent applied for cancellation of the Settlement Deed but not for maintenance while the third respondent's wife had claimed maintenance. Against the order passed by the RDO in those proceedings, the appellant chose to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. We notice that the only immovable property of the third respondent was settled in favour of the appellant in 2009. The



Property ad-measures about 4950 sq.ft. The sale value of the Property was about Rs.50,00,000/- in 2017 as per the Agreement of Sale dated 10.05.2017. The market value, as on date, is likely to be much higher. The third respondent appears to be currently residing in or in occupation of the Property. If the third respondent had received appropriate legal advice, the third respondent could have retained life interest in the Property. At a minimum, the third respondent could have incorporated a condition in the Settlement Deed that the appellant should provide basic amenities and provide for the physical needs of the third respondent and his wife. As the beneficiary of the immovable property of the third respondent, the appellant is under both a statutory and moral obligation to provide for the maintenance of her father and mother. The suggestions we made in Court, in this regard, were not accepted by either party. In this factual context, even without the procedural device of a formal application, we are of the view that it is appropriate to exercise our discretionary jurisdiction under Article 226 for the purpose of ensuring that maintenance is provided to her parents by the appellant.



25. We recognise that the Senior Citizens Act provides for the Tribunal to direct payment of a maximum maintenance allowance of Rs.10,000 per month to a senior citizen. This right is available even if no settlement was made by the senior citizen. Although monthly maintenance was not paid in the past, we direct such payment only for the future. By taking into account the reasons set out in this and the preceding paragraph, the cost of living and other relevant considerations, we direct the appellant to pay a consolidated sum of Rs.30,000/- (Rupees Thirty Thousand only) per month from December 2023 onwards to the third respondent and his wife as maintenance. Such payment shall be made on or before the 7th of every calendar month beginning 07.12.2023. Notwithstanding the separate petition filed by the third respondent's wife, we fix this amount as the aggregate maintenance for the parents of the appellant. Subject to payment of maintenance, if any portion of the Property is let out to tenants, only the appellant and not the third respondent shall be entitled to receive rent. In addition, since the third respondent is in possession of the Property, we direct the appellant not to disturb



such possession. In case the appellant intends to alienate, encumber or otherwise develop the Property, the appellant shall apply for permission from this Court and such request would be considered subject to terms and conditions.

26. In *R.Sasikala v. The Inspector General of Registration, MANU/TN/0685/2021*, one of us (SVNJ) emphasised the role of the Sub-Registrar/ Registrar in ensuring that senior citizens avail of the statutory benefit of Section 23. Given the fact that Section 23 imposes pre-conditions to be fulfilled before a senior citizen can avail of the benefit of the provision, in line with and pursuant to the statutory mandate under Section 21 of the Senior Citizens Act, we direct the Inspector General of Registration to issue a circular to all registration offices functioning under his jurisdiction to ensure that senior citizens are provided information about their statutory rights, such as the right to retain life-interest in the property proposed to be settled in favour of their children or legal heirs and about the advisability of incorporating a condition in the settlement deed that the transferee should provide for their basic amenities and physical needs and that the settlement is liable to be



revoked otherwise. An easy-to-use check list may be prepared to ensure that gift or settlement deeds are executed with the informed consent of senior citizens.

27. For reasons set out above, these writ appeals are disposed of on the above terms and subject to the above directions, and the common order dated 22.11.2019 in W.P.Nos.10849 & 26810 of 2017 is set aside. Consequently, the cancellation deed dated 14.12.2012 bearing Document No.8693 of 2012 is quashed. The order dated 27.09.2017 of the first respondent in Na.Ka.No.2194/2017/A3 also stands quashed. Therefore, connected miscellaneous petitions are closed.

(S.V.N., J) (S.K.R., J)

06.11.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

1. The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.
2. The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai-600 004.
3. The Sub-Registrar,
Office of the Sub-Registrar,
Udumalpet,
Tiruppur District.

S.VAIDYANATHAN J.
and
SENTHILKUMAR RAMAMOORTHY J.

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Pre-delivery Common Judgment made in
W.A.Nos.374 & 376 of 2020



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&

**CMP Nos.6248 & 6252 of 2020 in WA.No.374 of 2020 &
CMP Nos.6251 & 6253 of 2020 in WA.No.376 of 2020**

06.11.2023

**W.A.Nos.374 & 376 of 2020
&
C.M.P.Nos.6248, 6253, 6251 & 6253 of 2020**

S. VAIDYANATHAN, J.
and

SENTHILKUMAR RAMAMOORTHY, J.

This matter has been listed under the caption 'For Being
Mentioned' at the instance of the learned counsel for the Petitioner.

2. In the last sentence in paragraph 13 of the Judgment dated
06.11.2023, the word 'transferor' has been wrongly typed as 'transferee'.



Therefore, the word “transferee” in the last sentence of paragraph 13 of the aforesaid judgment, shall read as “transferor”.

3. Registry is directed to issue fresh order copy after carrying out the aforesaid correction.

4. Except the above modification, the Judgment dated 06.11.2023 remains unaltered.

(S.V.N., J.) (S.K.R., J.)
19.12.2023

arr

S. VAIDYANATHAN, J.
and
SENTHILKUMAR RAMAMOORTHY, J.

arr



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**W.A.Nos.374 & 376 of 2020
&
C.M.P.Nos.6248, 6253, 6251 & 6253 of 2020**

19.12.2023