



WEB COPY



W.P. Nos. 18084 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 18084 of 2021
and
W.M.P. No. 19316 of 2021**

T. Sangeetha

... Petitioner

-VS-

1. The Presiding Officer,
Appellate Authority/District Collector,
Chengalpattu District.
2. The Presiding Officer,
Maintenance Tribunal,
Revenue Divisional Office,
Tambaram.
3. T.Annamalai
4. A.Sabarirajan
5. The Tahsildar,
Pallavaram Taluk,
Pallavaram.
6. The Sub Registrar
Office of the Sub Registrar,
Pammal.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the order passed by the 1st respondent under reference number Rc.No.11084/2020/M1



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dated 15.07.2021 and consequential order passed by the 2nd respondent dated 24.10.2020 passed under reference number Na.Ka.2261/2019/A and Quash the same as illegal and invalid.

For Petitioner : Mr. Ragulavel Rajesh
for Mr. R. Rajesh Vivekananthan

For Respondents : Mr. S. Arumugam,
Government Advocate
(for R1, R2, R5 and R6)

Mr. K.Meenakshisundaram (for R3)

No appearance (for R4)

ORDER

Heard Mr. Ragulavel Rajesh, Learned Counsel for the Petitioner, Mr. S. Arumugam, Learned Government Advocate appearing for the First, Second, Fifth and Sixth Respondents and Mr. K.Meenakshisundaram, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Fourth Respondent when the matter is called at 12.10 p.m. today.



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3. The Third Respondent, who is a Senior Citizen, had executed a settlement-deed dated 18.10.2010 registered as Document No. 4618 of 2010 in the office of the Sub-Registrar, Pammal transferring his property in favour of the Petitioner, who is his daughter. He had made an application invoking Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act' for short) for treating that settlement-deed as void before the Second Respondent, which was granted by Order No. Na. Ka. 2261/2019/A dated 24.10.2020 and has been confirmed in appeal under Section 16 of the Act by Order in Rc. No. 11084/2020/M1 dated 15.07.2021 passed by the First Respondent. The said orders are challenged in this Writ Petition.

4. It is clear from the plain language of Section 23 of the Act that its benefit would be applicable only when there is a specific clause in the instrument of transfer that the transferee has an obligation to provide the basic amenities and needs of the senior citizen, which he has refused or failed to carry out, which is fortified by the ruling of the Hon'ble Supreme Court of India in the decision in ***Sudesh Chhikara -vs- Ramti Devi*** (Order dated 06.12.2022 in Civil Appeal No. 174 of 2021) holding the field. In this case, the requisite clause to avail the



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remedy in Section 23 of the Act mentioned supra is absent. *Afortiori*, the bar of jurisdiction of the Civil Court to entertain suit for such relief created under Section 27 of the Act would not arise.

5. In view of the foregoing discussion, the impugned orders dated 15.07.2021 and 24.10.2020 passed by the First and Second Respondents respectively treating the settlement-deed dated 18.10.2010 registered as Document No. 4618 of 2010 in the office of the Sub-Registrar, Pammal as void, which cannot be sustained, are set aside. However, it is hastened to clarify here that it would not preclude the Third Respondent from working out his remedies under common law including Section 31 of the Specific Relief Act, 1963, for appropriate relief. It is needless to add here that no view has been expressed by the Court on the merits of the controversy involved in the matter.

6. At this stage, the Petitioner, who is present in Court today, undertakes to pay a sum of Rs. 5,000/- per month as maintenance to the Third Respondent and she has made an endorsement to that effect in the court record, which shall be enforced as if it is an order passed by the Concerned Authority under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and shall be without prejudice to the rights of the Third Respondent to seek any



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further amount towards maintenance that he may be entitled under law.

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In the result, the Writ Petition is ordered on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 17.04.2024.

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To

1. The Presiding Officer,
Appellate Authority/District Collector,
Chengalpattu District.
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3. The Tahsildar,
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P.D. AUDIKESAVALU, J.

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