



W.P. No. 26609 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. 26609 of 2021

Manikanda Prabhu

... Petitioner

-VS-

1. The District Collector,
Ariyalur, Ariyalur District.
2. The Revenue Divisional Officer,
Ariyalur, Ariyalur District.
3. The Tahsildhar,
Ariyalur.
4. The Sub-Registrar,
Keezapalur, Ariyalur District.
5. The Village Administrative Officer,
Annimangalam, Ariyalur Taluk,
Ariyalur District.
6. Karuppaian

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the Second Respondent passed in Pa.Mu.A5/405/2021 dated 24.09.2021 in relation to the settlement deed No. 2023/2015 dated 15.09.2015, on the file of Sub-Registrar Office, Keezapalur, Ariyalur District and quash the same as illegal, consequently direct the Second Respondent to re-consider the properties standing in the name of Sixth Respondent and scope of Section 23 Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



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For Petitioner : Mr. R.Venkatesulu
For Respondents : Mr. S.Arumugam,
Government Advocate (for R1 to R5)
Mr. C.Prabhakaran (for R6)

ORDER

Heard Mr. R.Venkatesulu, Learned Counsel for the Petitioner and Mr. S.Arumugam, Learned Government Advocate appearing for the First to Fifth Respondents and Mr. C.Prabhakaran, Learned Counsel appearing for the Sixth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Sixth Respondent, who is a Senior Citizen, had executed a settlement-deed dated 15.09.2015 registered as Document No. 2023 of 2015 in the office of the Sub-Registrar, Keezupalur transferring his property in favour of the Petitioner, who is his son. 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. Pa. Mu. A5/405/2021 dated 24.09.2021. The said order is challenged



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in this Writ Petition.

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3. 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 remedy in Section 23 of the Act mentioned supra is absent and on the contrary, there is an express recital in the aforesaid settlement-deed executed by the Sixth Respondent in favour of the Petitioner that it is irrevocable. *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.

4. In view of the foregoing discussion, the impugned order dated 24.09.2021 passed by the Second Respondent treating the settlement-deed dated 15.09.2015 registered as Document No. 2023 of 2015 in the office of the Sub-Registrar, Keezupalur as void, which cannot be sustained, is set aside. However, it is hastened to clarify here that it would not preclude the Sixth



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Respondent from working out his remedies under common law including

Section 31 of the Specific Relief Act, 1963, for such 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.

5. At this stage, Learned Counsel for the Petitioner submits that the Petitioner would pay a sum of Rs. 5,000/- per month as maintenance to the Sixth Respondent and he has made an endorsement to that effect in the court record, which shall be enforced as if it was 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 Sixth Respondent to seek any further amount towards maintenance that he may be entitled under law.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, connected Miscellaneous Petitions are 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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P.D. AUDIKESAVALU, J.

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