



WEB COPY



W.P. No. 28885 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

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

W.P. No. 28885 of 2023

and

W.M.P. No. 28465 of 2023

and

W.M.P. No. 30547 of 2024

Kanagamani

... Petitioner

-VS-

1. The District Collector of Coimbatore,
Office of the District Collector,
Coimbatore.

2. The Revenue Divisional Officer Cum Divisional Magistrate,
Office of the Revenue Divisional Officer,
Coimbatore North,
Coimbatore.

3. Krishnakumar N.

4. Narayanasamy

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the file of the First Respondent dated 28.08.2023 made in his proceedings No. Pa.Mu.No. 214530/2002/Vu and quash the same and consequently grant the relief as prayed in the complaint of the Petitioner dated 09.04.2021.



W.P. No. 28885 of 2023

WEB COPY

For Petitioner : Mr. S.Senthilnathan

For Respondents : Mr. U.Baranidharan
Additional Government Pleader
(for R1 & R2)

Mr. N.Ramakrishnan
for M/s. ARK Law Associates
(for R3 & R4)

ORDER

Heard Mr. S.Senthilnathan, Learned Counsel for the Petitioner and Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. N.Ramakrishnan, Learned Counsel for the Third and Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner, who is a senior citizen, that she has executed a settlement-deed transferring her property in favour of the Third Respondent, who is her son, and she had made a representation dated 09.04.2021 for treating the settlement-deed as void before the Second Respondent, who had declined to grant such relief by Order in Pa. Mu. No. 2154/2021/A1 dated 01.06.2021. The First Respondent by Order in Pa.Mu. No. 214530/2022/Vu2 dated 28.08.2023 in the appeal preferred by the



W.P. No. 28885 of 2023

Petitioner under Section 16 of the Act, reiterated the said order passed by the Second Respondent and further directed the Third Respondent to pay a sum of Rs. 10,000/- every month towards maintenance to the Petitioner. This Writ Petition has been filed challenging the said order passed by the First Respondent insofar as it does not grant the relief of cancellation of the settlement-deed sought by the Petitioner before the Second Respondent.

3. At this juncture, it requires to be noticed 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, neither the orders passed by the First and Second Respondents disclose as to whether the aforesaid settlement-deed executed by the Petitioner contains the requisite clause nor the Petitioner has produced the copy of the aforesaid settlement-deed in this Writ Petition so as to ascertain the same. In such circumstances, it would not be possible to grant the relief sought by the Petitioner in the Writ Petition.



W.P. No. 28885 of 2023

WEB COPY In the result, the Writ Petition is dismissed. Consequently, the connected

Miscellaneous Petition is closed. No costs.

09.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 29.05.2024.

ns1

To

1. The District Collector of Coimbatore,
Office of the District Collector,
Coimbatore.
2. The Revenue Divisional Officer Cum Divisional Magistrate,
Office of the Revenue Divisional Officer,
Coimbatore North,
Coimbatore.



WEB COPY



W.P. No. 28885 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 28885 of 2023

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