



WP(MD)No.15208 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **12.12.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.15208 of 2021

and

W.M.P.(MD)No.12140, 12141 & 13643 of 2021

S.Ganansigamani

...Petitioner

/Vs./

1.The District Collector/appellate Authority,
Virudhunagar District,
District Collectorate,
Virudhunagar.

2.The Sub Collector
Cum Senior Citizens Welfare Tribunal,
Sivakasi Revenue District,
Virudhunagar.

3.Selvaguru (Died)

4.The Sub Registrar,
Watrap Registration Office,
Virudhunagar District.

5.R.Shanmugapriya

6.S.Ayyanar

7.S.Mariappan

...Respondents

(R5 to R7 are substituted vide the order of this Court dated WMP(MD)No. 13657 of 2023.)



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for records relating to the impugned order of the 1st respondent in Na.Ka.C4/3522/2021 dated 19.07.2021 and quash the same as illegal.

For Petitioner : Mr.Mohamed Rafi
for M/s.Ajmal Associates
For Respondents : Ms.S.Jeyapriya (R1, R2 & R4)
Government Advocate
Mr.I.Vel Pradeep (R3)

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent in Na.Ka.C4/3522/2021 dated 19.07.2021 cancelling the settlement deed that was executed in favour of the petitioner by the third respondent dated 27.07.2009, registered as Document No.1176 of 2009.

2. When the matter came up for hearing on 26.08.2021, this Court passed the following order:-

“The petitioner challenges an order dated 19.07.2021 of the first respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act). The main grounds on which the impugned order is challenged are two fold. The first ground of challenge is that Section 23 of the



Act applies only to transfers made after the commencement of the Act. The settlement deed in the present case was executed on 27.07.2009, which pre-dates the commencement of the Act. The second ground is that Section 23 can be resorted to only if the transfer was made on the condition that basic amenities and basic physical needs should be provided to the transferor. The contention is that the settlement deed in question does not impose such condition.

2.Upon consideration of the aforesaid submissions and on perusal of the settlement deed and the relevant orders, a prima facie case is made out to restrain the fourth respondent from registering any document of conveyance in respect of the property which is subject matter of the dispute. The order of interim injunction shall operate for a period of three weeks.

3.Mr.P.Subbaraj, learned Counsel for the State accepts notice on behalf of respondents 1, 2 & 4.

4.Issue notice to the third respondent, returnable by 16.09.2021. Private notice is permitted.”

3. Heard Mr.Mohamed Rafi, learned counsel for the petitioner, Ms.S.Jeyapriya, learned Government Advocate for the official respondents and Mr.I.Vel Pradeep, learned counsel for the third respondent.

4. The short ground that arises for consideration is as to whether the first respondent was right in cancelling the settlement deed that was executed in



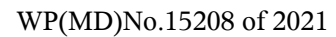
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favour of the petitioner on 27.07.2009 on the ground that the petitioner did not properly take care of his father, who is the third respondent in this writ petition.

5. The third respondent died during the pendency of this writ petition and his legal representatives have been substituted.

6. This Court carefully went through the settlement deed dated 27.07.2009. The settlement deed did not provide for any condition that the petitioner must provide for any basic amenities, basic physical needs, failing which the third respondent had retained any right to cancel the settlement deed. In the absence of any such pre-condition, the first respondent cannot cancel the document under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

7. The issue involved is no longer res integra and is squarely covered by the judgment of the Hon'ble Apex Court in the case of ***Sudesh Chhikara vs. Ramti Devi and Another*** reported in ***2022 SCC OnLine SC 1684***. That apart, the order of the learned Single Judge in W.P.No.32650 of 2022, dated 06.12.2022 will also apply to the facts of this case.



9. In view of the above, the impugned proceedings of the first respondent in Na.Ka.C4/3522/2021 dated 19.07.2021 is hereby quashed and this writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes/No
Internet : Yes/No
Index : Yes/No

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- 3.The Sub Registrar,
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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.15208 of 2021
(2/2)

Dated:
12.12.2023