



WEB COPY



W.P. No. 1166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

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

W.P. No. 1166 of 2024

and

W.M.P. No. 1223 of 2024

P.Rajaram

... Petitioner

-VS-

1. The District Collector,
Kanchipuram,
Kanchipuram District
(Appellate Tribunal of Maintenance of
Parents and Senior Citizen)

2. Revenue Divisional Officer
and the Executive Magistrate,
Tribunal for Maintenance and Welfare of Parents
and Senior Citizens,
Kanchipuram – Revenue Division,
Kanchipuram District.

3. Chandrasekar

... 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 records of the Proceedings dated 18.04.2022 in Na. Ka. No. 21591/2021/M1 of the First Respondent confirming the Second Respondent Proceedings dated 09.11.2021 in Pa. Mu. 3208/2021/Aa5 and quash the same and consequently allow the Petition filed by the Petitioner dated 30.08.2021.



WEB COPY



W.P. No. 1166 of 2024

For Petitioner : Ms. S.Thamizharasi
For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1 & R2)
Mr. K.Vijaykumar (for R3)

ORDER

Heard S.Thamizharasi, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate and Mr. K.Vijaykumar, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is a Senior Citizen, had executed settlement-deed dated 27.03.2015 registered as Document No. 1841 of 2015, settlement-deed dated 14.05.2019 registered as Document No. 2683 of 2019 and settlement-deed dated 14.05.2019 registered as Document No. 2780 of 2019 in the office of the Sub-Registrar, Kanchipuram transferring his property in favour of the Third Respondent, 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 those settlement-deeds as void before the Second Respondent, who had declined to grant such relief by Order No. Pa. Mu. 3208/2021/A5 dated 09.11.2021 and has been



W.P. No. 1166 of 2024

confirmed in appeal under Section 16 of the Act by Order in Na. Ka.

No. 21591/2021/M.1 dated 18.04.2022 passed by the First Respondent, which are challenged in this Writ Petition.

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 and he has refused or failed to carry out such condition, 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-deeds executed by the Petitioner in favour of the Third Respondent 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 aforesaid legal position, there does not appear to be any infirmity in the decision-making process of the First and Second Respondents in the impugned orders warranting interference by this Court in the exercise of



W.P. No. 1166 of 2024

discretionary powers of judicial review under Article 226 of the Constitution of India. However, it is hastened to clarify here that it would not preclude the Petitioner from working out his remedies under common law including Section 31 of the Specific Relief Act, 1963, for appropriate relief uninfluenced and uninhibited by the impugned orders passed by the First and Second Respondents. 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.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 17.04.2024.

kv

To

1. The District Collector,
Kanchipuram,
Kanchipuram District
(Appellate Tribunal of Maintenance of
Parents and Senior Citizen)



W.P. No. 1166 of 2024

2. Revenue Divisional Officer
and the Executive Magistrate,
Tribunal for Maintenance and Welfare of Parents
and Senior Citizens,
Kanchipuram – Revenue Division,
Kanchipuram District.



WEB COPY



W.P. No. 1166 of 2024

P.D. AUDIKESAVALU, J.

kv

W.P. No. 1166 of 2024

06.03.2024