



WEB COPY



W.P.No.10747 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10747 of 2024

and

W.M.P.No.11828 of 2024

Al.Murugesan

... Petitioners

Vs.

1.The District Collector
Ranipet District,
Ranipet.

2.Superintendent of Police
Ranipet District,
Ranipet.

3.The Revenue Divisional Officer
Ranipet Town,
Ranipet District.

4.The Tahsildar
Walajah Town,
Ranipet District.

5.M.Kolandaivelu

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India



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praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned report Na.Ka.No.3/1631/2023 dated 10.01.2024 issued by the 3rd respondent and quash the same and directing the 3rd respondent to cancel the Gift deed Document No. 715 of 2005 executed on 23.09.2004 by the petitioner and petitioner wife in favour of 5th respondent.

For Petitioners : M/s.Hari Perumal

For Respondents : Mr.P.Gurunathan, AGP [for R1, R3 & R4]

: Mr.A.Gopinath,
Govt. Advocate (Crl.Side) [for R2]

: Mr.G.Vetrivelrajan [for R5]

ORDER

The Writ Petition has been filed challenging the order passed by the 3rd respondent thereby rejecting the complaint lodged by the petitioner under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the "Act").

2. The petitioner is the father of the 5th respondent. The petitioner seeks to reclaim the property he had settled in favor of the 5th respondent through a Gift Deed dated 23.09.2014, registered as Document No.715 of



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2005. According to the petitioner, he was not maintained by the 5th respondent and he could not able to maintain himself. Therefore, the petitioner lodged a complaint under Section 23 of the Act before the 3rd respondent.

3. It is relevant to extract the provisions of Section 23(1) of the Act.

Section 23(1) of the Act reads as follows:-

"Where any senior citizen who, after the commencement of this Act, has by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal."

4. Thus, it is clear that to attract the above provisions, the Gift Deed/Settlement Deed must be executed after the commencement of the Act



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and must contain a specific clause that the transferee should maintain the transferor, failing which the Settlement Deed/Gift Deed stands automatically void.

5. Admittedly, the petitioner had settled the property in favor of the 5th respondent as early as in the year 2004, three years before the commencement of the Act. Therefore, the complaint filed by the petitioner under Section 23 of the Act is not maintainable.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the 3rd respondent and the Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

21.08.2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN, J.

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