



WEB COPY



W.P.No.1745 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1745 of 2024 and
WMP.Nos.1793 & 1794 of 2024

1.Dhanalakshmi
2.Sabarmathi

... Petitioners

Vs.

1.The District Collector/
Appellate Tribunal for Maintenance & Welfare
of Parents & Senior Citizen,
Coimbatore
2.The Revenue Divisional Officer/Sub-Collector/
Tribunal for Maintenance & Welfare of Parents &
Senior Citizen,
Pollachi Revenue Division, Pollachi
3.Kasinathan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records of the first respondent in Pa.Mu.No.1260006/2023/U2 dated 29.12.2023 and confirming the order of the second respondent in Na.Ka.No.689/2023/A1 dated 26.06.2023 and to quash the same.

For Petitioners : Mr.C.Prabakaran
for Mr.V.Anandhamoorthy



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For Respondents

For R1 & 2 : Mr.P.Gurunathan,
Additional Government Pleader

For R3 : Mr.A.V.Vignesh

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 29.12.2023 thereby confirming the order passed by the second respondent dated 26.06.2023 thereby ordered monthly maintenance of Rs.10,000/- in favour of the third respondent by each of the petitioners.

2. The third respondent owned a property. He married the first petitioner and gave birth to the second petitioner and another daughter. In order to settle them, the third respondent had settled the property by way of settlement deed in the year 2005 registered vide document No.2387 of 2005 with life interest of the said property till his life time. Thereafter the third respondent suffered with old age ailments. However the petitioners failed to maintain him and as such, the third respondent lodged complaint under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the second respondent. The second respondent,



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after fulfilled enquiry, concluded that the third respondent is entitled for only maintenance of Rs.10,000/- each payable by the petitioners. Further, the petitioners were directed to hand over the original documents. Aggrieved by the same, the third respondent preferred an appeal before the first respondent and the same was also dismissed thereby confirmed the order passed by the second respondent.

3. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

4. On perusal of records, revealed that the settlement deeds were executed by the third respondent in favour of the second petitioner and another daughter in the year 2005. Whereas Maintenance and Welfare of Parents and Senior Citizens Act came into effect only from the year 2007. In order to lodge complaint under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the third respondent must fulfil the condition that the documents should be registered after commencement of the said Act and there must be a



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condition for maintaining the third respondent failing which, the settlement deed can be cancelled. Admittedly the settlement deed was executed in the year 2005 and after period of 17 years, the third respondent, that too after commencement of the Act, lodged complaint. It is relevant to extract the provisions under Section 23(1) of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 hereunder:

23. Transfer of property to be void in certain

circumstances - (1) Where any senior citizen who, after the commencement of this Act, has transferred 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.

5. Thus it is clear that the complaint itself is not maintainable and the second respondent rightly ordered only maintenance of Rs.10,000/- payable by each of the petitioners and also directed them to return the original documents in respect of the property which was settled by the third respondent, which are in their custody. The same has also



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been rightly confirmed by the first respondent. As such, this Court finds no infirmity or illegality in the impugned orders of the first and the second respondents and this writ petition is liable to be dismissed.

6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

19.08.2024
(2/2)

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

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