



WEB COPY



W.P. No. 4782 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM

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

**W.P. No. 4782 of 2024
and
W.M.P. No. 5211 of 2024**

Chinnanan

... Petitioner

-VS-

1. The District Collector,
District Collector Office,
Tiruchengode Road,
Namakkal District.
2. The Revenue Divisional officer,
Revenue Divisional office,
Namakkal District.
3. The Sub-Registrar,
Senthamangalam Sub-Registrar Office,
Salem District.

4. Logambal

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, call for records and quash order in Na.Ka.No.1345/Po.Pa.Sa/2022 dated 06.01.2023 passed by the First Respondent.



W.P. No. 4782 of 2024

WEB COPY

For Petitioner : Mr. C.Raghavan

For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate, (for R1 and R2)

Mr. U.Baranidharan (for R3)
Additional Government Pleader

ORDER

Heard Mr. C.Raghavan, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate, appearing for the First and Second Respondents, and Mr. U.Baranidharan, Learned Additional Government Pleader appearing 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 a settlement-deed dated 01.10.2018 registered as Document No. 4106 of 2018 in the office of the Sub-Registrar, Rasipuram transferring his property in favour of the Fourth Respondent, who is his daughter. 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 that settlement-deed as void before the Second Respondent, who had declined to grant such relief by Order in Pa.Mu 5195/2021/A1 dated 22.12.2021 and has been confirmed in



W.P. No. 4782 of 2024

appeal under Section 16 of the Act by Order in Na. Ka. No.

1345/Pe.Pa.Sa/2022 dated 06.01.2023 passed by the First Respondent. The

said orders 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, 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, 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-deed executed by the Petitioner in favour of the Fourth 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. In view of the same, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition reserving the right of the Petitioner to work out their remedies under common law including Section 31 of the Specific Relief Act, 1963, for that relief claimed and an endorsement to that effect has been made in the court



W.P. No. 4782 of 2024

WEB COPY

In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. It is needless to add here that nothing said in the impugned orders shall inhibit or influence while considering any relief that may be sought by the Petitioner in future legal proceedings. Consequently, connected Miscellaneous Petition is closed. No costs.

01.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.03.2024.

gsa

To

1. The District Collector,
District Collector Office,
Tiruchengode Road,
Namakkal District.
2. The Revenue Divisional officer,
Revenue Divisional office,
Namakkal District.
3. The Sub-Registrar,
Senthamangalam Sub-Registrar Office,
Salem District.



WEB COPY



W.P. No. 4782 of 2024

P.D. AUDIKESAVALU, J.

gsa

W.P. No. 4782 of 2024

01.03.2024