



W.P. No. 3519 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM

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

**W.P. No. 3519 of 2021
and
W.M.P. No. 4014 of 2021**

S.Suresh

... Petitioner

-VS-

1. The Chief Officer,
Parents and Senior Citizen Maintenance cum Welfare Tribunal cum
Revenue Divisional Officer,
Anna Nagar Wing,
Central Chennai.
2. The Sub Registrar,
Sub Registrar Office,
Ambattur,
Chennai.
3. S.Subramani
4. Kokila
5. Sumathi
6. Sujatha

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records on the file of



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the First Respondent passed in Na. Ka. No. 2548/2019/A5 dated 18.01.2021

and quash the same as illegal.

For Petitioner : Mr. D.Gopinathan

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

Mr. M.Thamilvel (for R3)

Mr. S.Saishankar (for R4 to R6)

ORDER

Heard Mr. D.Gopinathan, Learned Counsel for the Petitioner, Mr. S.J.Mohammed Sathik, Learned Government Advocate appearing for the First and Second Respondents, Mr. M.Thamilvel, Learned Counsel for the Third Respondent and Mr. S.Saishankar, Learned Counsel for the Fourth to Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent, who is a Senior Citizen, had executed a settlement-deed dated 18.01.2010 registered as Document No. 263 of 2010 in the office of the Sub-Registrar, Ambattur transferring his property in favour of



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the Petitioner, 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 that settlement-deed as void before the First Respondent, which was granted by Order in Na. Ka. No. 2548/2019/A5 dated 18.01.2021 and is 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. *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 foregoing discussion, the impugned order dated 18.01.2021 passed by the First Respondent treating the settlement-deed dated



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18.01.2010 registered as Document No. 263 of 2010 in the office of the Sub-

Registrar, Ambattur as void, which cannot be sustained, is set aside. However, it is hastened to clarify here that it would not preclude the Third Respondent from working out his remedies under common law including Section 31 of the Specific Relief Act, 1963, for appropriate relief. 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.

5. At this stage, it is agreed by Learned Counsel for both sides that the Petitioner would continue to pay Rs. 5,000/- to the Third and Fourth Respondents each towards maintenance every month without prejudice to the rival contentions and the Third and Fourth Respondents would not pursue the case in M.C. No. 8 of 2023 filed by them before the Judicial Magistrate Court, Ambattur and they have made an endorsement to that effect in the court record, which shall be enforced as if it is an order passed by the Concerned Authority under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and shall be without prejudice to the rights of the Third and Fourth Respondents to seek any further amount towards maintenance that he may be entitled under law.



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WEB COPY In the result, the Writ Petition is ordered on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

21.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 17.04.2024.

vjt

To

1. The Chief Officer,
Parents and Senior Citizen Maintenance cum Welfare Tribunal cum
Revenue Divisional Officer,
Anna Nagar Wing,
Central Chennai.
2. The Sub Registrar,
Sub Registrar Office,
Ambattur,
Chennai.



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P.D. AUDIKESAVALU, J.

vjt

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