



W.P.No.7232 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.7232 of 2021

and

W.M.P.No.7736 of 2021

M.Dhanavel

... Petitioner

Vs.

1.First Class Executive Magistrate cum Sub-Collector,
Kallakurichi,
Kallakurichi District.

2.Karuppayeammal

3.The Sub-Registrar,
Sankarapuram,
Kallakurichi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st respondent issued in Na.Ka.A6/936/2020 dated 25.01.2021 and quash the same.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.U.Baranidharan
Additional Government Pleader [R1 & R3]
Not Ready in Notice [R2]



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ORDER

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2. The case of the petitioner is that, the 2nd respondent is his grandmother and she had four sons, namely Royappan, Kuppan, Palani and Balu and three daughters, namely Periyammal, Pachiyammal and Iyyammal. He is the son of the said Periyammal. Out of love and affection, his grandmother executed a settlement deed dated 19.11.2019 as Document No.4826/2019 in his favour. However, on the instigation of other legal heirs, the 2nd respondent filed a petition under The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (in short 'the Act') before the 1st respondent alleging that she executed the settlement deed in favour of the petitioner on the premises that he would take care of her day-to-day needs but he failed to do so and unless the settlement deed is cancelled, she cannot maintain herself. When the said proceedings are pending before the 1st respondent, at the instigation of another grandson of 2nd respondent, the 2nd respondent has unilaterally cancelled the settlement deed dated 19.11.2019 registered as Document No.4826/2019 executed in favour of the



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petitioner vide cancellation deed dated 11.12.2020 registered as Document No.5861/2020 and the 3rd respondent has accepted the same. On the same day, a settlement deed dated 11.12.2020 registered as Document No.5865/2020 appears to have been executed by one Kuppan in favour of his wife Sivandavalli in respect of part of subject property. Similarly, by another settlement deed dated 15.12.2020 registered as Document No.6035/2020, part of subject property was settled in favour of Minor Muthupriya, D/o.Balu, who is the grand-daughter of 2nd respondent. Therefore, the petitioner had filed a suit in O.S.No.836 of 2020 on the file of Additional Subordinate Judge, Kallakurichi and the said suit is pending. Though the petition filed by the 2nd respondent does not attract the provisions of the Act, however, the 1st respondent passed the impugned order in Na.Ka.A6/936/2020 dated 25.01.2021 directing the cancellation of settlement deed dated 19.11.2019 registered as Document No.4826/2019 in favour of the petitioner. Challenging the same, the petitioner has filed the present writ petition before this court.

3. Learned counsel for the petitioner submitted that, once the 2nd respondent has executed a settlement deed in favour of the petitioner, the same cannot be cancelled by the 1st respondent, which can be cancelled only



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through the competent civil court. Further, he submitted that the issue involved in the present writ petition is no longer *res integra* and a similar issue was dealt with by the Hon'ble Apex Court in the case of ***Sudesh Chhikara Vs. Ramti Devi and Another*** in ***Civil Appeal No.174 of 2021*** reported in ***2022 SCC Online SC 1684***, wherein, the Apex Court by relying on Section 23 of the Act had allowed the said appeal. Therefore, he submitted that the present writ petition deserves to be allowed by following the said decision.

4. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the respondents 1 and 3 and perused the material documents placed on record.

5. For better appreciation, the relevant portion of the decision of the Hon'ble Apex Court in the case of ***Sudesh Chhikara*** (stated supra) relied upon by the learned counsel for the petitioner is extracted hereunder:

“13. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in subsection (1) of Section 23 are



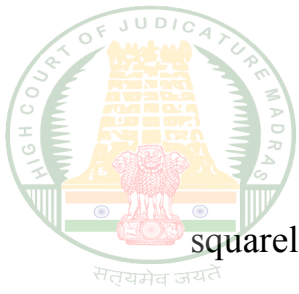
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attached to a transfer, existence of such conditions must be established before the Tribunal.

14. Careful perusal of the petition under Section 23 filed by respondent no.1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of respondent no.1) would provide the basic amenities and basic physical needs to respondent no.1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the impugned judgment of the Tribunal, immediately after a reply was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor – senior citizen is sine qua non for applicability of subsection (1) of Section 23. In the present case, as stated earlier, it is not even pleaded by respondent No.1 that the release deed was executed subject to such a condition.”

6. In the present case in hand, as rightly pointed out by the learned counsel for the petitioner, the subject document executed in favour of the petitioner by the 2nd respondent being irrevocable and without any condition for cancellation of the settlement in case the settlee fails to take care of the settlor. There being no such condition, cancelling the settlement deed executed in favour of the petitioner by the 2nd respondent is wholly perverse and unsustainable and the 1st respondent failed to take note of the twin condition as mandated under Section 23 of the Act before passing the said order. The decision of the Apex Court in *Sudesh Chhikara* case stands



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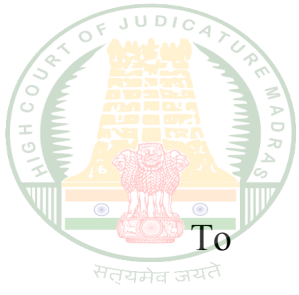
squarely attracted to the case on hand and the present writ petition deserves to be allowed by setting the impugned order.

7. Accordingly, the impugned order passed by the 1st respondent in Na.Ka.A6/936/2020 dated 25.01.2021 is set aside. However, this court is of the view that, it is the duty of the petitioner to maintain his grandmother when he obtained a property from her. Hence, this court fixes a sum of Rs.2,500/- (Rupees Two Five Hundred only) as maintenance to the 2nd respondent and the petitioner is directed to pay the said maintenance amount to the 2nd respondent on or before the 5th day of every English Calendar Month.

8. With the above observations and direction, this Writ Petition is allowed. No costs. Consequently, the connected writ miscellaneous petition is closed.

01.10.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

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- 1.The First Class Executive Magistrate cum Sub-Collector,
Kallakurichi,
Kallakurichi District.
- 2.The Sub-Registrar,
Sankarapuram,
Kallakurichi District.



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This writ petition is once again listed today under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court that vide order dated 01.10.2024, this Court had allowed the writ petition, but, however, in the said order, in the prayer portion, in paragraphs 1, 2 and 7 of the said order, the number of the impugned order was wrongly typed as Na.Ka.A6/939/2020, whereas, it should have been Na.Ka.A6/936/2020.

3. It is further pointed out by the Registry that the error was brought to the notice of the concerned Personal Assistant, who had made the requisite correction in the said order, but the said corrected order was not re-uploaded to the website and, thereby, while the signed order showed the correct number of the impugned order, but the same was not reflected in the copy that was available on the web. Therefore, necessary directions are solicited by the Registry to correct the order copies, both the typed version and the web copy so as to enable the Registry to issue correct drafted order copy to the parties.



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4. Initially, the matter was listed for being mentioned on 24.09.2025 and on that date, learned counsel produced the web copy of the order, which revealed an error in the number of the impugned order, However, the order in original, which had been signed, revealed the correct number of the impugned order and the actual error was not clearly explained to the Court by the parties and, therefore, based on the correct signed order, this Court had directed that no further order is necessary.

5. However, since passing of the order dated 24.09.2025, Registry has placed before this Court the present matter and has also pointed out the error that had crept in and the difficult situation faced by the Registry in issuing the order copy.

6. This Court perused the typed order, which has been signed and the web copy, which was taken and placed before the court by the learned counsel and it reveals that in the prayer portion, in paragraphs 1, 2 and 7 of the order dated 01.10.2024, the number of the impugned order has been wrongly typed as Na.Ka.A6/939/2020, though it has been subsequently corrected to read as Na.Ka.A6/936/2020, however, the said corrected order has not been uploaded on the web. The non-transfer of the said corrected order to the web has created the



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confusion, which has resulted in this Court directing no further order necessary vide its order dated 24.09.2025. Therefore, the order dated 24.09.2025 stands recalled.

7. It is further evident that in the prayer portion, in paragraphs 1, 2 and 7 of the said order dated 01.10.2024, the number of the impugned order has been inadvertently typed as Na.Ka.A6/939/2020, whereas, it should have been Na.Ka.A6/936/2020, which has since been corrected in the typed signed order, but not uploaded to the web.

8. The concerned Personal Assistant, after properly verifying the order to ensure the correct number of the impugned order, is directed to transfer the order dated 01.10.2024, which has since been corrected and which carries the correct number of the impugned order to the server and upon such transfer, Registry is directed to upload the said order dated 01.10.2024 to the web, after deleting the earlier uploaded order dated 01.10.2024 as also the order dated 24.09.2025, which has since been recalled.



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9. Registry is directed to ensure the aforesaid corrections and uploading

are properly done and thereafter issue the copy of the order dated 01.10.2025 to the parties.

09.10.2025

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