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W.P.No.8966 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM:

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

W.P.No.8966 of 2022 and
WMP.Nos.8794 & 8796 of 2022

1.Kanjammal(died)
2.Subbammal
(2nd petitioner substituted vide order dated
24.10.2024 made in WMP.No.32613 of
2022 in WP.No.8966 of 2022)

... Petitioner

Vs.

1.The District Collector/
Appellate Authority
(Maintenance of Parents and
Senior Citizens Act),
Collectorate,
Tiruppur,
Tiruppur District
2.The Sub Divisional Magistrate/
Revenue Divisional Officer,
Tiruppur,
Tiruppur District
3.M.Govindasamy
4.M.Subramaniam
5.Subbammal

(5th respondent impleaded vide order
dated 24.10.2024 made in WMP.No.32613 of
2022 in WP.No.8966 of 2022)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of



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India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order dated 01.02.2022 made in Mu.Mu. No.26615/ 2021/ E1 passed by the 1st respondent confirming the order dated 27.08.2021 made in Na.Ka.No.1934/2021/E3 passed by the 2nd respondent, quash the same and consequently direct the respondents 1 and 2 to cancel the settlement deeds dated 03.09.1998 (Doc. Nos. 689 and 690 / 1998) in the names of the respondents 3 and 4.

For Petitioner : Mr.N.Manokaran

For Respondents

For R1 & 2 : Mr.S.J.Mohamed Sathik,
Government Advocate

For R3 : No appearance

For R4 : Mr.K.Myilsamy

ORDER

This writ petition has been filed challenging the order passed by the respondents 1 and 2 dated 01.02.2022 and 27.08.2021 thereby rejected the request made by the first petitioner to cancel the settlement deeds executed in favour of the respondents 3 and 4.

2. It is seen that the first petitioner died and her other two



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daughters have been added as party. Respondents 3 and 4 are their brothers. While the first petitioner was alive, the property to an extent of 0.88.5 hectares comprised in RS.No.141/4 to 7 situated at Agrahara Periyapalayam Village, Uthukuli Taluk, Tirupur District was settled in favour of respondents 3 and 4 herein by the settlement deed dated 03.09.1998 registered vide document Nos.689 and 690 of 1998. Therefore, she lodged complaint in the year 2021 alleging that she had executed settlement deed in favour of respondents 3 and 4 herein and thereafter, they failed to maintain her.

3. Admittedly, settlement deeds were executed in the year 1998. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came into effect only from 29.09.2008 in the State of Tamilnadu. In order to maintain a complaint under Section 23 of the said Act, settlement deeds should have been executed after commencement of the Act. It is relevant to extract the provision under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 hereunder:

23. Transfer of property to be void in certain circumstances -



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(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.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.

4. Thus, it is clear that in order to maintain a complaint under Section 23 of the above Act for declaring settlement deeds as void, the



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senior citizen should have executed the settlement deed after the commencement of the Act. In the case on hand, admittedly, the deceased first petitioner had executed settlement deeds in the year 1998 i.e. before the commencement of the said Act. Therefore, the respondents 1 and 2 rightly rejected the request made by the first petitioner to cancel the settlement deeds executed in favour of the respondents 3 and 4 herein.

5. In view of the above, this Court finds no infirmity or illegality in the impugned orders passed by the respondents 1 and 2 and this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

24.10.2024
(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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To

- 1.The District Collector/
Appellate Authority
(Maintenance of Parents and
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Collectorate,
Tiruppur,
Tiruppur District
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