



WEB COPY



W.P. No. 10339 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

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

W.P. No. 10339 of 2023

1.R.Parimala Devi

2.P.Anuradha

... Petitioners

-VS-

1.The District Collector – Chennai District,
No.62, Rajaji Salai,
Singaravelar Maaligai, Fourth Floor,
George Town,
Chennai 600 001.

2.The Revenue Divisional Officer –
North Chennai Revenue Division,
Office of the RDO
Gandhi Main Road, Puzhal
Chennai 600 066.

3.The Sub Registrar – Sebiyam,
Perambur
Chennai 600 011.

4.T.Padmavathi

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the Second Respondent in his



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proceedings Na.Ka.No.A7/5219/2022 vide order dated 10.01.2023 and quash

the same as illegal and without jurisdiction and issue a consequential direction to the Third Respondent to restore the modification done based on the order passed by the Second Respondent vide order dated 10.01.2023.

For Petitioners : Mr. C.Sakthivel

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

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

Mr. G.Thalaimutharasu (for R4)

ORDER

Heard Mr. C.Sakthivel, Learned Counsel for the Petitioners, Mr.S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Second Respondents, Mr. U.Baranidaran, Learned Additional Government Pleader appearing for the Third Respondent and Mr. G.Thalaimutharasu, Learned Counsel for the Fourth Respondent 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



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settlement-deed dated 23.10.2009 registered as Document No. 6944 of 2009 in the office of the Sub-Registrar, Sembiam, Chennai District transferring her property in favour of the Petitioners, who are her grand-daughters. She 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, which was granted by Order in Na. Ka. No. A7/5219/2022 dated 10.01.2023 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.



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4. In view of the foregoing discussion, the impugned order dated 10.01.2023 passed by the Second Respondent treating the settlement-deed dated 23.10.2009 registered as Document No. 6944 of 2009 in the office of the Sub-Registrar, Sembiam, Chennai District as void, which cannot be sustained, is set aside. However, it is hastened to clarify here that it would not preclude the Fourth Respondent from working out her 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, Learned Counsel for the Petitioners submits that the Petitioners undertake to provide a separate room or a separate portion of the property to the Fourth Respondent for her peaceful stay and she could directly collect the rents from the tenants in occupation of the property and in the event of any default in payment of rent, the Petitioners would themselves pay Rs. 10,000/- to her at the first instance, and in turn, get it reimbursed from the rent payable by the concerned tenants and he has made an endorsement to that effect in the court record, which shall be enforceable as if it is an order passed by the Competent Authority under Section 4 of the Act and Rule 20(2)(i) of the



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Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules,

2009, and shall be without prejudice to the rights of the Third Respondent to seek any further or other reliefs that she would be entitled in law.

In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

28.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 17.04.2024.

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To

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P.D. AUDIKESAVALU, J.

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