



W.P. No. 23731 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

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

W.P. No. 23731 of 2023

and

W.M.P. No. 23242 of 2023

Kannagi

... Petitioner

-VS-

1. The District Collector,
Office of District Collector,
Thorapadi Village,
Melmalayanur Taluk,
Villupuram District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tindivanam,
Villupuram District.
3. The Village Administrative Officer,
Office of VAO,
Thorapadi Village,
Melmalayanur Taluk,
Villupuram District.
4. Ramakrishnan
5. Sheela Rani
6. Kuppan
7. Chinnadurai
8. Chithira Devi

... Respondents



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W.P. No. 23731 of 2023



W.P. No. 23731 of 2023

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records related to the impugned proceedings bearing Na. Ka. Aa3/3513/2023 dated 11.07.2023 passed by the Second Respondent herein, the Sub Collector, Tindivanam under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and quash the same.

For Petitioner : Mr. V.R.Appaswamee

For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1 to R3)

Mr. C.Munusamy (for R4 to R6 & R8)

Ms. Sasikala (for R7)

ORDER

Heard V.R.Appaswamee, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First to Third Respondent, Mr. C.Munusamy, Learned Counsel for the Fourth to Sixth and Eighth Respondents and Ms. Sasikala, Learned Counsel for the Seventh Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Fourth Respondent, who is a Senior Citizen, along with the Seventh



W.P. No. 23731 of 2023

Respondent, who is his son, had executed a sale-deed dated 07.10.2020 registered as Document No. 1082 of 2020 in the office of the Sub-Registrar, Valathi, Villupuram District transferring their property in favour of the Petitioner, who is their daughter-in-law and wife respectively. The Fourth Respondent 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 sale-deed as void before the Sub Collector, Tindivanam, who had granted such relief by Order No. Na. Ka. A3/3513/2023 dated 11.07.2023, 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.



W.P. No. 23731 of 2023

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4. In view of the foregoing discussion, the impugned order dated 02.02.2022 passed by the First Respondent treating the sale-deed dated 07.10.2020 registered as Document No. 1082 of 2020 in the office of the Sub-Registrar, Valathi, Villupuram District as void, which cannot be sustained, is set aside. However, it is hastened to clarify here that it would not preclude the Fourth and Seventh Respondents from working out their 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, the Petitioner and Seventh Respondent have filed affidavits dated 02.03.2024 undertaking to jointly pay a sum of Rs. 10,000/- per month as maintenance to the Fourth Respondent, which shall be enforceable 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 Fourth Respondent to seek any further amount towards maintenance that he may be entitled under law.



W.P. No. 23731 of 2023

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

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

06.03.2024

Index: Yes/No

NCC: Yes/No

Note: (i) Issue order copy by 17.04.2024.

(ii) Registry is directed to return the impugned order under written acknowledgment after retaining a copy of the same for record.

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To

1. The District Collector,
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Melmalayanur Taluk,
Villupuram District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
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W.P. No. 23731 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 23731 of 2023

06.03.2024