



W.P. No. 28307 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

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

W.P. No. 28307 of 2022

V.Sadagopan

... Petitioner

-VS-

1. The District Collector,
Collectorate Campus,
Sathuvachari, Vellore 632 009.
2. The Revenue Divisional Officer,
B-Block, 4th Floor, Collectorate Campus,
Sathuvachari, Vellore 632 009.
3. The Registrar,
Sub Registrar Office,
Kaniyambadi, Vellore 632 009.
4. Inspector of Police,
Vellore Taluk Police Station,
Kaniyambadi, Vellore 632 009.
5. S.Kirubanandan
6. K.Kumar

... 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 of the First Respondent in E.A.P.P.MU.D 3/3345/2022 dated 24.08.2022 and quash the same.



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For Petitioner : Ms. N.S.Rachel Catherine
For Respondents : Mr. S.J.Mohamed Sathik, (for R1 to R4)
Government Advocate
Mr. Na. Malai Saravanan (for R5)
No appearance (for R6)

ORDER

Heard Ms. N.S.Rachel Catherine, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing the First to Fourth Respondents and Mr. Na.Malai Saravanan, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Sixth Respondent when the matter is called at 12.35 p.m. today.

3. The Petitioner, who is a Senior Citizen, had executed a settlement-deed dated 18.12.2019 registered as Document No. 2905 of 2019 in the office of the Sub-Registrar, Kaniyampadi transferring his property in favour of the Fifth Respondent, who is his son. He had made an application invoking Section 23 of



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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, who had declined to grant such relief by Order No. Mu. Mu. (A2)/1414/2021 dated 11.03.2022 and has been confirmed in appeal under Section 16 of the Act by Order No. Pa. Mu. D3/3345/2022 dated 24.08.2022 passed by the First Respondent. The said order passed by the First Respondent is challenged in this Writ Petition.

4. 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, which he has refused or failed to carry out, 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 and on the contrary, there is an express recital in the aforesaid settlement-deed executed by the Petitioner in favour of the Fifth Respondent that it is irrevocable. *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. In view of the same, Learned



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Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition reserving the right of the Petitioner to work out their remedies under common law including Section 31 of the Specific Relief Act, 1963, for that relief claimed and an endorsement to that effect has been made in the court record.

In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. It is needless to add here that nothing said in the impugned orders shall inhibit or influence while considering any relief that may be sought by the Petitioner in future legal proceedings. No costs.

25.03.2024

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.

gsa

To

1. The District Collector,
Collectorate Campus,
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P.D. AUDIKESAVALU, J.

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