



WEB COPY



W.P. No. 28158 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

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

W.P. No. 28158 of 2023

and

W.M.P. No. 27681 of 2023

S. Roja

... Petitioner

-VS-

1. The District Magistrate cum District Collectorate
Chennai District, Singaravelar Maligai,
No.62, Beach Road, Rajaji Salai,
George Town, Chennai 600 001.

2. The Revenue Divisional Officer,
North Chennai,
Mahalakshmi Nagar,
Puzhal, Chennai 600 060.

3. Mr. S. Gopi

4. S. Yuvaraj

... 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 1st Respondent dated 13.06.2023 in proceedings No. Se.Mu.Ka.Na.81/A1/2023 and quash the same as illegal and thereby declare the two the said settlement deeds dated 03.02.2012 registered respectively as Document No.585 of 2012 and 586 of 2012 at the SRO Madhavaram as null and void under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner : Mr. M.Stalin



W.P. No. 28158 of 2023

For Respondents : Mr. S.J.Mohamed Sathik (for R1 and R2)
Government Advocate
No appearance (for R3)
Mr. N.Subramanian (for R4)

ORDER

Heard Mr. M.Stalin, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Second Respondents and Mr. N.Subramanian, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is a Senior Citizen, had executed settlement-deeds transferring her properties in favour of the Third and Fourth Respondents as per details shown below:-

S.No	Date	Registration No.	Office of Sub-Registrar	Transferee
(i)	03.02.2012	585 of 2012	Madhavaram	S.Gopi (Third Respondent)
(ii)	03.02.2012	586 of 2019	Madhavaram	S.Yuvaraj (Fourth Respondent)

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 those settlement-deeds as void before the Second



W.P. No. 28158 of 2023

Respondent, who had declined to grant such relief by Order in Na. Ka. No. A4/3769/2022 dated 12.12.2022 and has been confirmed in appeal under Section 16 of the Act by Order in Se.Mu.Ka.Na.81/A1/2023 dated 13.06.2023 passed by the First Respondent. The said orders are 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, 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 invoke Section 23 of the Act mentioned supra is absent and *a fortiori*, 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 Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition reserving the right of the Petitioner to work out her remedies under common law including Section 31 of the Specific Relief Act, 1963, for that relief claimed and he has made an endorsement to that effect in the court record.



W.P. No. 28158 of 2023

4. It is represented that in terms of the impugned order passed by the First Respondent, the Third and Fourth Respondents have to pay together a sum of Rs. 6,000/- towards maintenance of the Petitioner, which they have not fully complied till date. In this regard, it is undertaken that the Fourth Respondent would pay the arrears that has been accumulated till December 2023 by 31.03.2024 and that he would pay the future amounts within the dates on which they fall due in her bank account, the details of which has been acknowledged today by Learned Counsel for the Fourth Respondent who has also made an endorsement to that effect 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. Consequently, the connected Miscellaneous Petition is closed. No costs.

22.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.03.2024.

gsa



W.P. No. 28158 of 2023

To

WEB COPY

1. The District Magistrate cum District Collectorate
Chennai District, Singaravelar Maligai,
No.62, Beach Road, Rajaji Salai,
George Town, Chennai 600 001.
2. The Revenue Divisional Officer,
North Chennai,
Mahalakshmi Nagar,
Puzhal, Chennai 600 060.



WEB COPY



W.P. No. 28158 of 2023

P.D. AUDIKESAVALU, J.

gsa

W.P. No. 28158 of 2023

22.01.2024