



W.P. No. 30679 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. 30679 of 2023

and

W.M.P. No. 30337 of 2023

S. Arukkaniammal

... Petitioner

-VS-

1. The District Collector/
Appellate Authority,
Collectorate,
Palladam Road,
Tiruppur,
Tiruppur District.
2. The Sub Collector/
Sub Divisional Magistrate,
Taluk Office Compound,
Tiruppur,
Tiruppur District.
3. J. Prema
4. J. Predeep

... 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 relating to the impugned orders dated 15.09.2023 made in Mu.Mu.No.16712/2023/E1 passed by the 1st respondent confirming the order dated 27.06.2023 made in Na.Ka.No.2697/2023/E3 passed by the 2nd respondent, quash the same and consequently, direct the respondents 1 and 2 to cancel the Settlement Deeds dated 10.06.2019 (Doc. No. 2963/2019-Joint Sub Registrar No. 2, Tiruppur) and dated 19.09.2019 (Doc. No. 3993/2019-SRO, Nallur) in the name of the respondents 3 and 4 respectively and the subsequent settlement deed dated 23.08.2021 (Doc. No. 2967/2021-SRO, Nallur) executed by the 4th respondent to the 3rd respondent.



WEB COPY



W.P. No. 30679 of 2023

For Petitioner : Mr. N. Manokaran

For Respondents : Mr. U. Baranidharan (for R1 and R2)
Additional Government Pleader

Mr. K. Mysamy (for R3 and R4)

ORDER

Heard Mr. N. Manokaran, Learned Counsel for the Petitioner, Mr. U. Baranidharan, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. K. Mysamy, Learned Counsel for the Third and Fourth Respondents 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 the Sub-Registrar	Transferee
(i)	10.06.2019	2963 of 2019	Tiruppur	Prema (Third Respondent)
(ii)	19.09.2019	3993 of 2019	Tiruppur	Predeep (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



W.P. No. 30679 of 2023

Act' for short) for treating those settlement-deeds as void before the Second Respondent, who had declined to grant such relief by Order in Na.Ka.No.2697/2023/E3 dated 27.06.2023 and has been confirmed in appeal under Section 16 of the Act by Order in Mu.Mu.No.16712/2023/E1 dated 15.09.2023 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 on the contrary, there is an express recital in each of those settlement-deeds executed by the Petitioner in favour of the Third and Fourth Respondents that they are 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 Counsel for the Petitioner seeks permission of this Court to withdraw the Writ



W.P. No. 30679 of 2023

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.

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, connected Miscellaneous Petition is closed. No costs.

22.01.2024

Index: Yes/No

NCC: Yes/No

Note: (i) Issue order copy by 22.03.2024.

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

gsa



W.P. No. 30679 of 2023

To

WEB COPY

1. The District Collector/
Appellate Authority,
Collectorate,
Palladam Road,
Tiruppur,
Tiruppur District.
2. The Sub Collector/
Sub Divisional Magistrate,
Taluk Office Compound,
Tiruppur,
Tiruppur District.



WEB COPY



W.P. No. 30679 of 2023

P.D. AUDIKESAVALU, J.

gsa

W.P. No. 30679 of 2023

22.01.2024