



W.P. No. 31506 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM

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

W.P. No. 31506 of 2023

and

W.M.P. No. 31136 of 2023

N. Mohan Siddarth

... Petitioner

-VS-

1. The District Collector,
Collector Office,
Gopalapuram,
Coimbatore – 641 018.

2. The Sub Divisional Magistrate-cum
The Revenue Divisional Officer,
Revenue Divisional office Coimbatore North,
Kavundampalayam,
Coimbatore.

3. Chinnasamy

... 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 and to quash the impugned order of the Second Respondent in Na.Ka.No.1074/2022/A1 dated 20.07.2023, cancelling the Settlement deed dated 11.03.2020 registered as Doc.No.1784 of 2020.



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For Petitioner : Mr. M.Roshan Atiq
For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1 & R2)
Mr. G.R.Deepak, (for R3)

ORDER

Heard Mr. M.Roshan Atiq, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Second Respondents and Mr. G.R.Deepak, Learned Counsel for the Third 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 settlement-deed dated 11.03.2020 registered as Document No. 1784 of 2020 in the office of the Sub-Registrar, Ganapathy, Coimbatore transferring his property in favour of the Petitioner, who is his grandson. He 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. 1074/2022/A1 dated 20.07.2023. The said



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order is challenged in this Writ Petition.

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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 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 Third Respondent in favour of the Petitioner 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.

4. In view of the foregoing discussion, the impugned order dated 20.07.2023 passed by the Second Respondent treating the settlement-deed settlement-deed dated 11.03.2020 registered as Document No. 1784 of 2020 in the office of the Sub-Registrar, Ganapathy, Coimbatore as void, which cannot be sustained, is set aside. However, it is hastened to clarify here that it would



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not preclude the Third Respondent from working out his remedies under common law including Section 31 of the Specific Relief Act, 1963, for such 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 Petitioner submits that the Petitioner would pay a sum of Rs. 10,000/- per month as maintenance to the Third Respondent from March 2024 onwards 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 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 Third Respondent to seek any further amount towards maintenance that he may be entitled under law.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

21.02.2024

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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