



W.P. No. 33172 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. 33172 of 2022

and

W.M.P. No. 32580 of 2022

Parthasarathy

... Petitioner

-VS-

1. The District Collector,
Chengalpattu District.
2. The Revenue Divisional Officer,
Madurantakkam Taluk,
Chengalpattu District.
3. Sridharan
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 of the impugned order passed by the First Respondent in his proceedings in Na. Ka. No. 10596/2022/M1, dated 17.10.2022, confirming the order of the Second Respondent in her proceedings in Ni. Mu. No. 314/2022/B, dated 05.05.2022 and quash the same, consequently, direct the First and Second Respondents to cancel the Settlement Deed in Doc. 3723/2014, dated



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05.06.2014, executed by the Petitioner at SRO Madurantakam, in favour of the

Third Respondent, under provision of Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

For Petitioner : Mr. A.Ramalingam

For Respondents : Mr. S.J.Mohamed Sathik (for R1 and R2)
Government Advocate

Mr. M.Dharanidharan (for R3)

ORDER

Heard Mr. A.Ramalingam, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate for the First and Second Respondents and Mr. M.Dharanidharan, Learned Counsel for the Third 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 a settlement-deed dated 05.06.2014 registered as Document No. 3723 of 2014 in the office of the Sub-Registrar, Madurantakkam, transferring his property in favour of the Third Respondent, who is his son. 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



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void before the Second Respondent, who had declined to grant such relief by

Order in Ni. Mu. No. 314/2022/Aa dated 05.05.2022 and has been confirmed in appeal under Section 16 of the Act by Order in Na. Ka. No. 10596/2022/M1 dated 17.10.2022 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.

4. However, Learned Counsel for the Petitioner persuades that the First and Second Respondents have not taken into account the consent-deed dated 09.06.2014 contemporaneously executed by the Third Respondent in favour of the Petitioner undertaking to maintain him and his wife in reciprocation of the execution of the settlement-deed in his favour, and relies on the following passage in the said decision in support of that contention:-



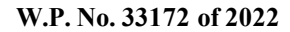
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“14. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal.”

5. Having regard to the said contention raised, it would be beneficial to refer to the decision of the Hon'ble Supreme Court of India in ***S.Chattanatha Kurayalar -vs- Central Bank of India Limited*** (AIR 1965 SC 1856), where it has been observed as follows:-

“3. The principle is well established that if the transaction is contained in more than one document between the same parties they must be read and interpreted together and they have the same legal effect for all purposes as if they are one document. In Manks -vs- Whiteley [1912, 1 Ch 735 at p 754] Moulton, L.J.



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This would obviously mean that the impugned orders passed by the First and Second Respondents are vitiated for the failure to take into account the execution of the consent-deed by the Third Respondent in favour of the Petitioner, which is relevant material while determining as to whether the Third Respondent had an obligation to provide basic amenities and needs of the Petitioner and his wife.

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view on the merits of the controversy involved in the matter, passes the

following order:-

- (i) the impugned Order in Na. Ka. No. 10596/ 2022/M1 dated 17.10.2022 passed by the First Respondent and Order in Ni. Mu. No. 314/2022/Aa dated 05.05.2022 passed by the Second Respondent, which cannot be sustained, are set aside;
- (ii) the matter is remitted back to the Second Respondent, who shall list the matter for next hearing on 19.06.2024 for determining the matter afresh in the light of the observations made in this order, after issuing due notice to the Petitioner and the Third Respondent in that regard;
- (iii) the Petitioner and the Third Respondent shall appear before the Second Respondent on the said date as well as on the subsequent dates to which it is adjourned;
- (iv) if the Second Respondent is not in a position to take up the matter on the said date, the date to which is adjourned shall be informed to the parties under written acknowledgment;
- (v) it shall be ensured by the Second Respondent that there are atleast two effective hearings every month showing progress of the case, that full opportunity of hearing is afforded to all parties concerned following the prescribed procedure in consonance with the principles of natural justice,



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that reasoned orders are passed dealing with each of the contentions raised on merits and in accordance with law, uninfluenced and uninhibited by the impugned order, which has been set aside, and that the decision taken is communicated to the concerned parties under written acknowledgment; and

- (vi) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

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

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

gsa/pal

To

1. The District Collector,
Chengalpattu District.
2. The Revenue Divisional Officer,
Madurantakkam Taluk,
Chengalpattu District.

Copy to



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The Registrar (Judicial),
Madras High Court,
Chennai – 600104.



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P.D. AUDIKESAVALU, J.

pal/gsa

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