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W.P. No. 31850 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM

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

**W.P. No. 31850 of 2023
and
W.M.P. No. 31456 of 2023**

K. Ranganathan

... Petitioner

-VS-

1. The District Collector,
Ranipet District,
Ranipet.

2. The Revenue Divisional Officer,
Sub Divisional Executive Magistrate,
Arakkonam.

3. R.Sankar Ganesh

... 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 relating to impugned order vide Mu.Mu.a3/6279/2023 dated 08.09.2023 on the file of the First Respondent herein and to quash the same.

For Petitioner

: Mr. D.Murthy

For Respondents

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

Mr. S.Prabhu (R3)



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ORDER

Heard Mr. D.Murthy, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Second Respondents and Mr. S.Prabhu, 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 25.11.2022 registered as Document No. 5254 of 2022 in the office of the Sub-Registrar, Kaveripakkam, transferring his property in favour of the Third Respondent, who is his son. He had made an application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as 'the Act' for short) for treating that settlement-deed as void before the Second Respondent, who had granted such relief by Order No. O. Mu. C2/10/2022 dated 22.07.2023. However, on appeal preferred by the Third Respondent against that order before the First Respondent invoking Section 16 of the Act, it was set aside in the Order No. Moo. Mu. Aa3/6279/2023 dated 08.09.2023, which is assailed in this Writ Petition.



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3. The Division Bench of this Court in the authoritative pronouncement in ***K.Raju -vs- Union of India*** [(2021) 2 CTC 129] has ruled that the plain language of Section 16 of the Act is clear that only a 'Senior Citizen' or 'Parent' could invoke the right of appeal under that legal provision, and none else could avail such remedy. As its consequence, the Order No. Moo. Mu. Aa3/6279/2023 dated 08.09.2023 passed by the First Respondent, which cannot be sustained, gets set aside, and the Order No. O. Mu. C2/10/2022 dated 22.07.2023 passed by the Second Respondent would revive.

4. At this stage, it must be highlighted that the plain language of Section 23 of the Act makes it clear 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 the



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aforesaid settlement-deed executed by the Petitioner in favour of the Third Respondent that it is irrevocable. Consequently, the Order No. O. Mu. C2/10/2022 dated 22.07.2023 passed by the Second Respondent is also set aside with a clarification that it would not preclude the rights of the Petitioner to work out his remedies under common law including Section 31 of the Specific Relief Act, 1963, for such relief. *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.

5. The First Respondent in the impugned order has rightly noticed that the Petitioner has already filed a suit in O.S. No. 44 of 2023 before the District Munsif Court, Arakkonam (hereinafter referred to as 'the Civil Court' for short) against the Third Respondent seeking for cancellation of the settlement-deed under Section 31 of the Specific Relief Act, 1963, which is pending. Since the Petitioner is a Senior Citizen and it is brought to notice that issues in the suit have already been framed, it shall be incumbent upon the Civil Court to ensure that there are atleast two effective hearings every month showing progress of the case and after affording full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, the said suit is expeditiously disposed, uninhibited and uninfluenced by



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the observations in this order, and the orders of the First and Second Respondents, which stand set aside, and monthly reports in that regard shall be sent to the Registrar (Judicial) of the Court till it is disposed.

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

26.02.2024

Index: Yes/No

NCC: Yes/No

Note: (i) Issue order copy by 22.05.2024.

(ii) If monthly reports are not received from the District Munsif Court, Arakkonam, the matter shall be listed before this Court.

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To

1. The District Collector,
Ranipet District,
Ranipet.
2. The Revenue Divisional Officer,
Sub Divisional Executive Magistrate,
Arakkonam.

Copy to

The District Munsif Court,



Arakkonam.

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P.D. AUDIKESAVALU, J.

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