



WEB COPY



W.P. No. 34137 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. 34137 of 2023

M.Ramachandran

... Petitioner

-VS-

1. The District Collector
O/o. The Collectorate Of Chennai
4th Floor, M.Singaravelar Maaligai
62, Rajaji Salai, Beach Road
George Town, Chennai- 600 001.

2. The Revenue Divisional Officer
Guindy Zone, Anna Salai
Guindy, Chennai-600 032.

3. The Sub Registrar
Alandur Sub- Registrar Office
15/17, Military Quarters
Alandur, Chennai- 600 016.

4. R.Umamaheshwari

5. R.Gokulnath

6. R.Prabhavathy

... 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 Order Passed By The 1st Respondent In



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Se.Mu.Na.Ka.No. 2226/ A1 / 2023 Dated 21.08.2023 And Quash The Same And Consequently Direct The 3rd Respondent To Cancel The Settlement Deed Registered Vide Document No. 2492 / 2018 Dated 11.06.2018 By Fixing Stipulated Time.

For Petitioner : Mr. N.Vijaya Basker

For Respondents : Mr. Saifudeen Ali Mohamed (RR4 & 6)
Mr. S.Anil Sandeep (R5)
Mr. S.J.Mohamed Sathik, GA (RR1 & 2)
Mr. U.Baranidaran, AGP (R3)

ORDER

Heard Mr. N.Vijaya Basker, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate for the First and Second Respondents, Mr. U.Baranidaran, Learned Additional Advocate General for the Third Respondent, Mr. Saifudeen Ali Mohamed, Learned Counsel for the Fourth and Sixth Respondents, Mr. S.Anil Sandeep, Learned Counsel for the Fifth 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 11.06.2018 registered as Document No. 2492 of 2018 in the office of the Sub-Registrar, Alandur transferring his property in favour of his wife, viz.,



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Thirumalaikumari and the the Fourth to Sixth Respondents, who are his children. 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, who had declined to grant such relief by Order in Se. Mu. No.A3/2819/2021 dated 14.06.2022 and has been confirmed in appeal under Section 16 of the Act by Order in Na. Ka. No. 2226/A1/2023 dated 21.08.2023 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 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 Petitioner that it would take effect only after his lifetime. *Afortiori*, the bar of



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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 along with his wife to work out their remedies under common law including Section 31 of the Specific Relief Act, 1963, for that relief claimed and an endorsement to that effect has been made in the court record.

4. It is represented that in terms of the impugned orders passed by the Second and First Respondents, the Fourth to Sixth Respondents have to pay a sum of Rs. 3,000/- each towards maintenance of the Petitioner before the 5th day of every month from June 2022 onwards, which the Fourth and Sixth Respondents have failed to comply till date. In this regard, it is undertaken that the Fourth and Sixth Respondents would pay the arrears that has been accumulated till February 2024 by 31.03.2024 and that they would pay the future amounts within the dates on which they fall due in his bank account, the details of which has been acknowledged today by Learned Counsel for the Fourth and Sixth Respondents who has also made an endorsement to that effect in the court record.



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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.

26.02.2024

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.

Maya

To

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P.D. AUDIKESAVALU, J.

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