



WEB COPY



W.P. No. 33104 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. 33104 of 2023

and

W.M.P. Nos. 32784 and 32786 of 2023

Ammasaiappan

... Petitioner

-VS-

1. The District Collector-cum-The Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, Coimbatore District.
2. The Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act-cum-The Revenue Divisional Officer, Coimbatore – South, Coimbatore District.
3. Senthilkumar
4. Ravikumar
5. Mageswari
6. Surya
7. Srinath

... 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 pertaining to the impugned order passed by the Second Respondent



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vide his proceedings in Pa.Mu.1420/2022/A1 dated 13.05.2022 and confirming order passed by the First Respondent vide proceedings in Na.Ka.No.15319/2022/Vu2 dated 12.05.2023 and quash the same and consequently direct the Second Respondent to cancel the settlement deed Nos.4513/2021 dated 16.12.2021, 4514/2021 dated 16.12.2021, 4724/2021 dated 29.12.2021, 3144/2021 dated 16.09.2021, 3145/2021 dated 16.09.2021 and 663/2022 dated 16.02.2022 on the file of the Sub-Registrar Office, Peelamedu, Coimbatore.

For Petitioner : Mr. M.Vijaya Ragavan

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

Mr. K.Goviganesan (R3 to R5 and R7)

No appearance (R6)

ORDER

Heard Mr. M.Vijaya Ragavan, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First and Second Respondents and Mr. K.Goviganesan, Learned Counsel for the Third to Fifth and Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner, who is a Senior Citizen, had executed settlement-deeds transferring his properties in favour of the Third to Seventh Respondents as per details shown below:-

S. No	Date	Registration No.	Office of the Sub-Registrar	Transferee
(i)	16.12.2021	4514 of 2021	Sub-Registrar, Peelamedu	A.Senthilkumar (Third Respondent)
(ii)	16.12.2021	4513 of 2021	Sub-Registrar, Peelamedu	A.Ravikukmar (Fourth Respondent)
(iii)	29.12.2021	4724 of 2021	Sub-Registrar, Peelamedu	A.Mageswari (Fifth Respondent)
(iv)	16.09.2021	3144 of 2021	Sub-Registrar, Peelamedu	A.Suriya (Sixth Respondent)
(v)	16.09.2021	3145 of 2021	Sub-Registrar, Peelamedu	A.Suriya (Sixth Respondent)
(vi)	16.02.2022	663 of 2022	Sub-Registrar, Peelamedu	S.Srinath (Seventh Respondent)

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 those settlement-deeds as void before the Second Respondent, who had declined to grant such relief by Order in Pa.Mu.1420/2022/A1 dated 13.05.2022 and has been confirmed in appeal under Section 16 of the Act by Order in Na.Ka.No.15319/2022/Vu2 dated 12.05.2023 passed by the First Respondent. The said orders are 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 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 to Seventh 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 Petition reserving the right of the Petitioner to work out his 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



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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: Issue order copy by 22.03.2024.

gsa

To

1. The District Collector-cum-The Appellate
Authority under the Maintenance and
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P.D. AUDIKESAVALU, J.

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