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W.P. No. 35287 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. 35287 of 2023  
and  
W.M.P. No. 35255 of 2023**

N.Gnanaprakasam

... Petitioner

-VS-

1. The District Collector,  
Office of the District Collector,  
Kanchipuram District.
2. The Executive Magistrate cum Revenue Divisional Officer,  
Office of the Revenue Divisional Officer,  
Kanchipuram District.
3. The Sub-Registrar,  
Office of the Sub-Registrar,  
Uthiramerur,  
Kanchipuram District.
4. G.Sivakumar
5. G.Arunachalam
6. G.Srinivasan

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records in Paa. Moo. 0018/2023/M1 dated 11.02.2023 on the file of the First Respondent by confirming order made in Paa. Moo. 682/2022/A5 dated 16.08.2022 on the file



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of the Second Respondent and quash the same.

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For Petitioner : Mr. E.D.Sethupathi

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

Mr. U.Baranidharan,  
Additional Government Pleader  
(for R3)

Mrs. M.Anuseela Sudhakar  
(for R4 & R5)

Mr. K. Devendran (for R6)

## ORDER

Heard Mr. E.D.Sethupathi, Learned Counsel for the Petitioner and Mr. S.J.Mohamed Sathik, Learned Government Advocate for the First and Second Respondents, U.Baranidharan, Learned Additional Government Pleader appearing for the Third Respondent, Mrs. M.Anuseela Sudhakar, Learned Counsel for the Fourth and Fifth Respondents and Mr. K.Devendran, Learned Counsel for the Sixth 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



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dated 11.02.2021 registered as Document No. 429 of 2021 in the office of the

Sub-Registrar, Uthiramerur transferring his property in favour of the Fourth and Fifth Respondents, who are his sons. 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 No. Pa. Mu. 682/2022/A5 dated 16.08.2022 and has been confirmed in appeal under Section 16 of the Act by Order in Pa. Mu. No. 0018/2023/M.1 dated 11.02.2023 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



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Petitioner in favour of the Fourth and Fifth Respondents 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. 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 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.

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, the connected Miscellaneous Petition is closed. No costs.

26.02.2024

Index: Yes/No

NCC: Yes/No

**Note: (i) Issue order copy by 17.04.2024.**

**(ii) Registry is directed to return the impugned order under written acknowledgment after retaining a copy of the same for record.**



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To

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Office of the Revenue Divisional Officer,  
Kanchipuram District.
3. The Sub-Registrar,  
Office of the Sub-Registrar,  
Uthiramerur,  
Kanchipuram District.



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**P.D. AUDIKESAVALU, J.**

**kv**

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