



W.P(MD)No.76 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.76 of 2020

and

W.M.P.(MD)Nos.45 of 2020

A.Kulandaisamy

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Ilaiyangudi Taluk,
Sivagangai District.

3.Maria Rajammal

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the 1st respondent in his proceedings in Pa.Mu(A1). 8101/2019 dated 9.12.2019 and quash the same.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 & R2
: Mr.S.Srinivasaraghavan for R3



ORDER

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Heard both sides.

2. The petitioner is none other than the son of the third respondent. The third respondent is a senior citizen. The third respondent complained to the first respondent that transfer of patta made in favour of the petitioner has to be cancelled. Taking cognizance of the third respondent's petition, the first respondent invoked Section 23 of the Senior Citizens Act and set aside the patta transfer order. Challenging the same, this writ petition came to be filed.

3. Section 23 of the Senior Citizens Act is as follows:-

23. Transfer of property to be void in certain circumstances

1. Where any senior citizen who, after the commencement of this Act, has by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

2. Where any senior citizen has a right to receive maintenance out of an estate and such estate or part, thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

3. If any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.



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4. This provision can be invoked by the Maintenance Tribunal only where the Senior Citizen had transferred the property in question. Of-course, there are other statutory requirements to be fulfilled. In this case, the senior citizen/R3 had not effected any transfer. The property stood in the name of the petitioner's paternal uncle. It is stated that there was a family arrangement as a result of which the patta was transferred. A patta transfer will not fall within the scope of Section 23 of the Act because it cannot be treated as a transfer of property. Invocation of Section 23 of the Act by the Maintenance Tribunal is patently without jurisdiction. It is set aside. It is made clear that the outcome of this writ petition will not have any bearing on the pending civil suit between the parties. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2024

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

- 1.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar,
Ilaiyangudi Taluk,
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