



W.P.(MD)No.669 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.669 of 2024

and

W.M.P.(MD)Nos.672 and 673 of 2024

1.G.Ramesh

2.G.Senthilkumar

... Petitioners

Vs.

1.The District Collector,
Madurai,
Madurai District.

2.The District Revenue Officer,
O/o. The District Revenue Office,
Collectorate Campus,
Madurai,
Madurai District.

3.The Revenue Divisional Officer,
O/o. the Revenue Divisional Office,
Madurai,
Madurai District.

4.S.Elango

5.E.Vijayalakshmi

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the third respondent in his proceedings in மு.மு.எண்.8052/2023/சி dated 21.11.2023 and quash the same as illegal.



W.P.(MD)No.669 of 2024

For Petitioners : Mr.V.Karthikraja
M/s.Ajmal Associates
For Respondents 1 to 3 : Mr.D.S.Neduncheliyan
Government Advocate
For Respondents 4 & 5 : Mr.D.Nalla Thambi

ORDER

Challenging the order passed by the third respondent dated 21.11.2023, this Writ Petition is filed.

2.Heard the learned counsels on either side and carefully perused the entire materials available on record.

3.The petitioners are the brothers of the fifth respondent. The fourth respondent executed a settlement deed in favour of his wife with respect to 450 square feet of property as early as on 12.12.2012. The fifth respondent has executed a gift deed in favour of the elder brother, one G.Krishnankumar, vide document dated 11.03.2013. Subsequently, the said gift deed was cancelled by the fifth respondent, by document dated 23.08.2013. Further she executed yet another gift deed bearing document No.5255 of 2014, dated 26.11.2014, in favour of the petitioners. The petitioners perfected title over the same by effecting mutation. While so, the fourth respondent preferred an Application under Section 5 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, to the third respondent, requiring to cancel the said gift deed



W.P.(MD)No.669 of 2024

executed by his wife in favour of the petitioners. The third respondent after enquiry, had passed the impugned order, cancelling the gift deed bearing document No.6204 of 2012 executed by him in favour of his wife. Challenging the same, this Writ Petition is filed.

4.The learned counsel appearing for the petitioners submitted that relying upon the ***Sudesh Chhikara's*** case reported in ***2022 Livelaw (SC) 1011***, he categorically contended that the said exercise of the third respondent is *per se* illegal because the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, mandates that the authorities could cancel any settlement deed executed in favour of their siblings/children/wife, only when the covenants of the settlement deed is incorporated with condition that the beneficiaries of the settlement deed should maintain the petitioner during the life time and in the absence of such condition, the authorities are not vested with power to cancel the settlement deed. In the instant case, the settlement deed executed by the fourth respondent in favour of the fifth respondent do not have any such condition. In view of the same, the third respondent ought not have passed an order of cancelling the aforesaid settlement deed and pressed for allowing the Writ Petition by setting aside the impugned order.

5.The learned Government Advocate for the respondents 1 to 3 fairly conceded that there is no such condition in the said deed.



W.P.(MD)No.669 of 2024

WEB COPY

6.Fully fortified by the judgment of the Hon'ble Supreme Court in ***Sudesh Chhikara's*** case, I have no hesitation to hold that the third respondent ought not to have passed the impugned order, when there is no implied condition in the settlement deed executed by the fourth respondent in favour of the fifth respondent, requiring the fifth respondent to maintain him during his lifetime.

7.Accordingly, the impugned order is set aside and the matter is remanded back to the third respondent to decide as to the question of providing the maintenance to the fourth respondent, if he is suffering in penury and in necessity and living in a condition requiring to be maintained by the petitioner.

8.In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



WEB COPY



W.P.(MD)No.669 of 2024

To

- 1.The District Collector,
Madurai,
Madurai District.
- 2.The District Revenue Officer,
O/o. The District Revenue Office,
Collectorate Campus,
Madurai,
Madurai District.
- 3.The Revenue Divisional Officer,
O/o. the Revenue Divisional Office,
Madurai,
Madurai District.



WEB COPY



W.P.(MD)No.669 of 2024

L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)No.669 of 2024

04.12.2024