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W.P.(MD)No.14049 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.14049 of 2024

and

W.M.P.(MD)Nos.12319, 12320 and 14211 of 2024

Karmegam

... Petitioner

Vs.

1.The District Collector /Appellate Authority,
Collectorate, Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer/
Maintenance Tribunal,
Sivagangai, Sivagangai District.

3.The Sub Registrar,
No.1, Registrarion Department,
Sivagangai,
Sivagangai District.

4.Kavitha
5.Punitha
6.Lakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned Appellate Tribunal order passed by the 1st respondent herein vide proceedings in Pa.Mu.P1/18700/2022 dated .11.2022 confirming the Original Authority / 2nd respondent order in Pa.Mu.A1/4181/2022 dated 12.08.2022 and



W.P.(MD)No.14049 of 2021

quash the same as illegal and further direct the 1st and 2nd respondents herein to pass appropriate orders to cancel the registered Settlement deed dated 12.02.2021 executed in favour of the 4th respondent herein, within time stipulated by this Court.

For Petitioner	: Mr.V.Meenakshi Sundaram
For R1 to R3	: Mr.A.Kannan Additional Government Pleader
For R4	: Mr.R.Maheswaran
For R5	: Mr.M.Lingadurai
For R6	: Mr.J.Udhaya Kumar

ORDER

Challenge has been made to the order passed by the appellate authority rejecting the request of the writ petitioner to cancel the settlement deed dated 12.02.2021 executed in favour of the fourth respondent.

2.The case of the petitioner is that the petitioner had executed a settlement deed in favour of the fourth respondent herein, who is non other than the son of the petitioner. Thereafter, he gave a complaint before the original authority on 06.05.2022 under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to cancel the said settlement deed on the ground the fourth respondent is not maintaining the petitioner properly and there is no source of income to the petitioner.



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3.The original authority rejected the claim of the petitioner observing that since the suit filed for partition is pending in O.S.No.49 of 2013 before the Additional District Court, Sivagangai, no action can be taken in the petition filed by the petitioner. Besides it is also held that the writ petitioner is a retired Teacher and he is a pensioner and he has sufficient means to maintain himself.

4.Challenging the same, the petitioner has filed an appeal before the appellate authority. The appellate authority/first respondent had dismissed the said appeal by confirming the order of the original authority. Challenging the same, the writ petition has been filed.

5.It is the contention of the learned counsel for the petitioner that as far as the cancellation of the settlement deed is concerned, the matter is seized of by the civil Court in O.S.No.49 of 2013. However, the observations regarding maintenance made by the authorities concerned are not proper. The reason being that the very application itself was filed for cancellation of the settlement deed under Section 23 of the Act. Therefore, the observations with regard to the maintenance cannot be sustained.

6.The learned counsel for the respondent would submit that the matter is also subjudiced before the civil Court and the parties shall agitate their issue in



the said suit pending before the civil Court. He further submitted that the orders passed by the original authority as well as the appellate authority cannot be found fault with as the petition to cancel the document has been filed on the ground that he is not properly maintained by the fourth respondent and there is no condition in the settlement deed to provide any maintenance to the petitioner.

7. Heard the learned counsel appearing on either side and perused the entire materials placed on record.

8. Perusal of the settlement deed indicates that absolutely the deed is only a settlement deed and no condition is stipulated in that deed to provide any maintenance to the settler. When there is no condition stipulated in the settlement deed to maintain the senior citizen and the same is absolutely transferred, without any right of revocation, an application under Section 23 of the Maintenance of and Welfare of Parents and Senior Citizens Act, 2007 itself does not arise at all. In this regard, the Hon'ble Supreme Court in ***Sudesh Chhikara vs. Ramti Devi and another*** reported in 2022 SCC online SC 1684 has held that mere refusal to maintain the senior citizen will not be a ground for cancellation of the transfer deed in the absence of specific condition for providing maintenance to transferor,



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9.As the law is very clear that the settlement deed cannot be cancelled on the ground of non maintenance of the settler, the orders passed by both the authorities cannot be found fault with. Hence, the order passed by the respondents regarding cancellation of the settlement is sustained. As far as the observation made with regard to the maintenance that the petitioner himself has sufficient means to maintain himself, since in the application filed by the petitioner before the authorities the petitioner has not claimed any maintenance, the order passed by the authorities regarding the maintenance is set aside.

10.With the above observations, this writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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N.SATHISH KUMAR, J.

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