



W.P(MD).No.16588 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.16588 of 2022

and

W.M.P(MD).Nos.12008, 12010 and 12013 of 2022

V.Manoj

... Petitioner

Vs.,

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub-Divisional Magistrate/
Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

3.The Sub-Registrar,
O/o., The Sub-Registrar,
Sayalkudi, Ramanathapuram District.

4.M.Rajapandian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records pertaining to impugned order in Pa.Moo.A2/1681/2022 dated 10.05.2022 on the file of the second respondent and quash the same as illegal and consequently restraining the respondent No.3 from registered any transaction in respect of property in Survey No.202/13B



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situated at Sayalkudi Old Ward No.7, New Ward Nos.10 and 11 within the time stipulated by this Court.

For Petitioner : Mr.Thirumurugan.T

For Respondents : Mr.P.Subbaraj (for R1 to R3)
Special Government Pleader

Mr.P.Krishnasamy (for R4)
for Mr.M.Pandian

ORDER

The writ petition has been filed challenging the order of the second respondent to cancel the gift deed executed by the fourth respondent in favour of the minor/petitioner.

2. The case of the petitioner is that, on 07.09.2020, the grand-father of the petitioner/ fourth respondent has executed a gift deed in favour of the petitioner in respect of Survey No.202/5, situated at Sayalkudi, Kadaladi Taluk, Ramanathapuram District. The said gift deed is absolute, without any right reserved for cancellation. On the basis of the petition given by the fourth respondent under the Tamil Nadu Maintenance of Parents and Welfare of Senior Citizen Act, 2005 (hereinafter referred to as 'Act' for brevity), the second



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respondent passed an order cancelling the gift deed. Challenging the same, the present writ petition has been filed.

3. The fourth respondent has filed counter affidavit, in which, it is the contention of the fourth respondent that after executing the gift deed in favour of his grand-child/petitioner, his son has become addict to alcohol and threatened him to vacate the property. Hence, he decided to cancel the said deed and write a Will. After conducting enquiry, the second respondent passed an order to cancel the gift deed as per Section 23(1) of the Act. Therefore, the order impugned need not be interfered.

4. I have heard both sides and perused the gift deed dated 07.09.2020.

5. A recital of the deed, it can be seen that it is a gift deed executed in favour of minor /petitioner by the fourth respondent, where his son was mentioned as a guardian of the petitioner and there is no conditions as that of transferee shall provide the basic amenities and basic physical need to the transferor and gift deed also indicates that it is irrevocable in nature. Therefore, the very applicability of Section 23 of the Act itself is misconceived. Only if there is a condition that the



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transferee shall provide the basic amenities and basic physical needs to the transferor and after execution of such document, if the 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 it can be declared as void.

6. In the absence of such condition, as a matter of right, the document, which conveyed title to the transferee, cannot be questioned under the said Act. It is relevant to note that the gift deed has been executed in favour of the minor and the transfer is complete and title also passed to the minor. Therefore, when the minor has become an absolute owner, the fourth respondent, as a matter of right, cannot invoke the provision under the Act. It is not a case of the fourth respondent that gift deed executed conditionally that he should be maintained, whereas the gift deed itself indicates that the absolute transfer is made in favour of the minor.

7. In such view of the matter, as far as the minor property is concerned, the transferrer has no right to cancel such document by invoking the Act. Accordingly, the impugned order passed by the second respondent in Pa.Moo.A2/1681/2022 dated 10.05.2022, is hereby quashed and the Writ Petition



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is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes/No
Rmk

To

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N.SATHISH KUMAR, J.

Rmk

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