



W.P(MD)No.19616 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.19616 of 2024

and

W.M.P.(MD)Nos.16627 & 19989 of 2024

S.Abdur Rahim

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Melur, Madurai District.

2.The Sub Registrar,
Melur West, Madurai District.

3.N.Rashiya Begum

4.N.Kattuva

5.K.NilofarNisha

... 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 impugned notice issued by the 1st respondent in his proceedings in Mu.Mu.9639/2023/C, dated 26.07.2024 and quash the same as illegal.

For Petitioner : Mr.J.Jeyakumaran

For R1 & R2 : Mr.A.Kannan,

Additional Government Pleader

For R3 : Ms.S.Jessimathul Fathima

For R4 : Tapal Returned

For R5 : No Appearance



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ORDER

According to the petitioner, the property to an extent of 388 sq.ft., situated at Kallampatti Village, Melur Taluk, Madurai District, belonged to the 3rd respondent, who executed gift deed in favour of her son / 4th respondent vide Doc.No.6850/2021. Thereafter, the 4th respondent executed a sale deed in favour of the petitioner vide Doc.No.2134/2023. Ever since the date of purchase, the petitioner is in possession and enjoyment of the same. While being so, the 3rd respondent made an application before the 1st respondent under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'the Act'), wherein the 1st respondent has passed an order, dated 26.07.2024, holding that the 3rd respondent is entitled to live in the property in question till her life time. Challenging the same, the petitioner has filed this Writ Petition.

2.It is the contention of the learned counsel for the petitioner that in the settlement, there is no condition attached. Further, the property has already been transferred to the petitioner. At this stage, the impugned order has been passed, directing the petitioner to permit the settlor to live in the property in question till her life time, which is not sustainable in the eye of law.



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3.Heard the learned counsel on both sides and perused the materials available on record.

4.This Court is of the view that the impugned order, giving life interest to the 3rd respondent, is without any basis. The settlement has been executed absolutely and the title passes immediately. Unless the power of revocation is reserved in this settlement, the settlement cannot be cancelled. Even to cancel any document invoking Section 23 of the Act, the settlement has been executed subject to such conditions. In the absence of any such conditions attached in this settlement to maintain senior citizen, such documents cannot be cancelled, as per the dictum of the Hon'ble Supreme Court of India in the case of *Sudesh Chhikara Vs. Ramti Devi and others* reported in **2023 (241) AIC 12**.

5.In such view of the matter, the impugned order of the 1st respondent is quashed and this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

03.10.2024

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

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N.SATHISH KUMAR, J

Yuva

To

- 1.The Revenue Divisional Officer,
Melur, Madurai District.
- 2.The Sub Registrar,
Melur West, Madurai District.

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