



WP(MD). No.21783 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 20/09/2024

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The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). Nos.21783 and 21784 of 2024 and 27036 of 2022
and WMP(MD) Nos.18401, 18403, 18414 and 18415/2024 and
21205/2022**

WP(MD) Nos.21783 and 21784 of 2024

K.R.Kumar

... Petitioner in
WP No.21783/2024

K.R.Sekar

... Petitioner in
WP No.21784/2024

Vs

1. The District Collector,
Pudukottai District,
Pudukottai.

2. The President,
The Maintenance and Welfare of Parents
and Senior Citizens Cum the Revenue
Divisional Officer, Pudukottai,
Pudukottai District.

3. The Joint Registrar,
Joint Registrar Office,
Pudukottai.

4. P.L.Karuppiah Chettiar



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5. K.R.Annamalai

... Respondents in
both petitions

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in his impugned order in Pa.Mu.2734/2020/A6 dated 14.09.2021 as arbitrary, illegal and quash the same and consequently direct the 3rd respondent to delete the entries in the Document remarks Column dated 30.10.2021.

For Petitioner : Ms.M.Rajeswari,
For Respondents : Mr.M.Siddharthan for R1 & R2
Additional Government Pleader
Mr.R.Paranjothi for R4

WP(MD) No.27036/2022

Karuppiah Chettiar

... Petitioner

Vs

1. The District Collector,
Pudukottai District,
Pudukottai.

2. The Joint Registrar,
Joint Registrar Office,
Pudukottai.

3.K.R.Sekar

4.K.R.Kumar

5. K.R.Annamalai

... Respondents

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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 relating to the impugned order passed by the 1st respondent in his impugned order in Na.Ka.No.C6/29319/2021 dated 19.09.2022 as arbitrary, without jurisdiction and illegal and quash the same.

For Petitioner : Mr.R.Paranjothi for R4
For Respondents : Mr.M.Siddharthan for R1 & R2
Additional Government Pleader
Ms.M.Rajeswari for R3&R4

COMMON ORDER

The writ petitions WP(MD) Nos.21783 and 21784 of 2024 have been filed challenging the order of the 2nd respondent dated 14.09.2021 cancelling the gift deed executed by the 4th respondent in favour of the petitioners on 24.08.2015 and for a direction to the 3rd respondent to delete the entries in the document.

2. While WP(MD)Nos.27083 and 27084 of 2024 have been filed by the petitioners against the order of the 2nd respondent, WP(MD) No. 27036 of 2022 has been filed challenging the order of the District Collector dated 14.09.2022. In fact, the District Collector has set aside the order of the 2nd respondent, challenging the said order on jurisdiction,



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the third writ petition has been filed by the father.

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3. The brief facts, which leading to the filing of the writ petitions are as under:

The 4th respondent is the father of the petitioners in WP(MD) No. 21783 & 21784/2024, who has executed a settlement deed in respect of Plot Nos.337 and 338 in TS No.8519 in favour of the petitioners. The settlement is absolute one and there is no condition attached. The settlement was executed in the year 2015 and accordingly, the petitioners have become absolute owners. However, the 4th respondent gave an application to the 2nd respondent on 28.06.2021 to cancel the documents. Pursuant to the same, the same has been cancelled vide impugned order dated 14.09.2021 and hence, challenging the same, the petitioners/sons are before this Court.

4. Heard the learned counsel for the petitioners, learned Additional Government Pleader for the official respondents and the learned counsel for the 4th respondent/father and perused the materials available on record.



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5. It is stated by the petitioners/sons that their father is an income tax assessee and has sufficient means to maintain himself and he is already in the custody of his another son and at his instance only, he has filed the above writ petition. The earning or the income tax assessee has not been disputed by other side.

6. The settlement in question was the subject matter of challenge. The settlement was executed by the father on 24.08.2015. A perusal of the above settlement deed makes it clear that the same is without any condition and it is absolute. There is no power reserved for modification. Once the settlement is absolute, the same cannot be revoked as a matter of right. As far as the revoking provision under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the settlement ought to have been executed subject to the conditions that settlee shall provide amenities and basic physical needs to transferee, namely, the settler and such settlee refuses or failed to provide such amenities and physical needs, the said transfer of properties shall be deemed to have been made by fraud or coercion or under undue influence and those documents can



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be held to be void. Only when the settlement contains such clause that the settlement is subject to maintain the senior citizens and only when the maintenance has not been provided, the documents can be set aside invoking Section 23 of the said Act. As long as there is no condition attached to the settlement deed, the document cannot be set aside merely on the allegation that senior citizens have not been properly maintained.

7. 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,

8. In view of the above, the order of the 2nd respondent stands quashed and WP(MD) Nos.21783 and 21784 of 2024 stand allowed. In view of the allowing of WP(MD) Nos.21783 and 21784 of 2024, WP(MD) No.27036/2022 has become infructuous. No costs.

20.09.2024

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TO

1. The District Collector,
Pudukottai District,
Pudukottai.
2. The President,
The Maintenance and Welfare of Parents
and Senior Citizens Cum the Revenue Divisional Officer,
Pudukottai, Pudukottai District.
3. The Joint Registrar,
Joint Registrar Office,
Pudukottai.



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N.SATHISH KUMAR,J

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**ORDER
IN
WP(MD) Nos.21783 & 21784 of 2024 and 27036 of
2022**

Date : 20/09/2024