



W.P.(MD) No.21727 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.21727 2024

and

W.M.P.(MD)No.18345 of 2024

Duraipandi

...Petitioner

-vs-

1.The District Collector,
Office of the District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Thirumangalam Division,
Madurai District.

3.The Sub Registrar,
Joint-4 Sub Registrar Office,
Madurai South, Madurai.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari, to call for the records pertaining to the order passed by the second respondent vide proceedings in Moo.Mu.No.2841/2022/A2 dated 02.11.2022 and quash the same as illegal and unconstitutional.



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For Petitioner	: Mr.M.Shakulhameed
For R1 & R2	: Mr.D.Sadiq Raja Additional Government Pleader
For R3	: Mr.C.Satheesh Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 02.11.2022 cancelling the settlement deed of the year 2007.

2.Mr.D.Sadiq Raja, learned Additional Government Pleader, takes notice for the respondents 1 and 2 and Mr.C.Satheesh, learned Government Advocate for the third respondent. By consent of both parties, this writ petition is taken up for final disposal.

3.The brief facts leading to the filing of this writ petition are as follows:

The mother-in-law of the petitioner had executed an irrevocable gift settlement deed in favour of her daughter, who is the wife of the



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petitioner on 22.08.2007. Thereafter, the wife of the petitioner died on 07.03.2018. After four years of her, a complaint has been made under Section 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to cancel the gift deed before the second respondent. Based on the same, the second respondent had cancelled the gift deed by an order dated 02.11.2022.

4.The learned counsel for the petitioner contended that the gift settlement deed has been executed in favour of his wife in the year 2007 and no condition is stipulated in that deed to provide any maintenance to the settler. Further, the complaint has been made by the settler only after four years of the death of the settlee. It is also to be noted that the settler also died on 26.10.2022 after making the complaint on 08.07.2022. The order cancelling the settlement deed has been passed after the death of the settler.

5.As far as the cancellation of the settlement deed invoking power under Section 23 of the Maintenance and Welfare of Parents and Senior



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Citizens Act, 2007, the law is well settled in the case of ***Sudesh Chhikara vs. Ramti Devi and another*** reported in 2022 SCC online SC 1684, wherein the Hon'ble Supreme Court 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.

6.In the given case, the deed is only a settlement deed and no condition is stipulated in that deed to provide any maintenance to the settler. Further, the settlement came into effect and the settlee was in possession and enjoyment of the property till her death. Only after four years of the death of the settlee, the complaint came to be filed by the settler. That apart, immediately after the complaint was given, the settler also died on 26.10.2022.

7.As the law is very clear that the settlement deed cannot be cancelled on the ground of non maintenance of the settler, the order passed by the second cannot be sustained. Accordingly, this writ petition



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is allowed and the order passed by the second respondent in Moo.Mu.No. 2841/2022/A2 dated 02.11.2022 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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N.SATHISH KUMAR, J.

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