



A.S.No. 97 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

A.S.No. 97 of 2023
and
C.M.P.No. 5205 of 2023

S.Jayalakshmi

... Appellant

Vs.

1. E.Tulasi @ Thulasiyammal
2. Krishnaveni
3. Uma Maheshwari
4. Saravanan
5. Kumaran

.. Respondents

PRAYER : Appeal Suit filed under Sec. 96 r/w Order 41 Rule 1 of Civil Procedure Code, praying to set aside the judgment and decree dated 16.11.2022 passed by the IV Addl. Judge, City Civil Court, Chennai in O.S. No.5887 of 2017.

For Appellant : Mr.R.Srinivas,
Senior Advocate for
Ms.V.Mythili

For Respondents : Mrs.R.Poornima for R1 to R4
R5 – no appearance



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JUDGMENT

The appellant herein is the plaintiff filed the suit in O.S.No.5887 of 2017, on the file of IV Addl. Judge, City Civil Court, Chennai, challenging the findings of the trial court, had preferred this Appeal Suit.

2. Before the trial court, the plaintiff filed a suit against the defendants 1 to 5 seeking for the relief of declaration as well as permanent injunction in respect of suit property admeasuring an extent of 283 sq.ft. of land along with a house in R.S.No.619/2, New R.S.No. 61/8 in Block No.36, Vaikundapuram, Nungambakkam, Chennai-600 034 bearing Door Old No. 80/6, New No. 80/11 in Mahalingapuram Road, Vaikundapuram with four boundaries as described in the plaint schedule. The said suit was contested by defendants 1 to 3 and the defendants 4 and 5 remained exparte. On considering both sides, the trial judge framed the issues and finally held that the plaintiff is not entitled for any relief as she prayed for.

3. For the sake of convenience, the parties are denoted as per the ranking in the suit.



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4. Brief facts of the case is as follows :-

The 1st defendant herein is mother of plaintiff. The suit property as described in the plaint schedule originally belongs to 1st defendant by way of purchase through a sale deed dated 10.07.1989 and ever since she was in possession and enjoyment of the same. The plaintiff, the defendants 2 and 3 are the daughters of 1st defendant and defendants 4 and 5 are the grandchildren of 1st defendant born through her another daughter Poongavanam. The case of plaintiff is that out of love and affection, on 13.03.1997, her mother/1st defendant along with her husband executed a registered Settlement deed in her favour, immediately the said deed was acted upon and the revenue records were transferred in the name of plaintiff. From the date of said settlement, the plaintiff is in absolute possession and enjoyment of the suit property. In the year 2016, the other defendants claiming right over the property as well as demanding share, on verification, the plaintiff came to know that her mother unilaterally cancelled the said settlement deed on 15.09.2010 and on the same day, she executed another settlement deed in favour of plaintiff and the defendants 2 to 5 granting 1/4th share in the suit property. The children of

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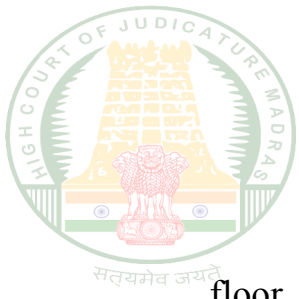


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Poongavanam, defendants 4 and 5 were also given 1/4th share. She came to know about the execution of settlement deed on 25.09.2017, immediately she come forward with the suit for declaration that the alleged cancellation of settlement deed would not bind her and also sought for permanent injunction not to cause any interference in the enjoyment of suit property.

5. The defendants 1 to 3 by filing written statements submitted their objections and stated that the 1st defendant got married and she had five children, out of five children, one daughter died as unmarried and other daughters were got married and living with their children. The plaintiff was residing along with her after the demise of her husband. Her another daughter Poongavanam was married to one Senthamarai and begotten defendants 4 and 5 as their children. The plaintiff, who used to visit 1st defendant's house developed illicit intimacy with 1st defendant daughter's husband Senthamarai and got married during the subsistence of first marriage of his wife Poongavanam. While so, the said Poongavanam became ill and the plaintiff was permitted to look after her. Later, Poongavanam died leaving behind defendants 4 and 5 and her husband as legal heirs. In the course of time, the 1st defendant was residing at the first



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floor and doing her housemaid work. Under the said circumstances, the plaintiff obtained signatures from the 1st defendant by misrepresentation. Thereafter, the tenant stopped to pay rent to her, then only they came to know that the plaintiff obtained a settlement deed from her on 21.03.2010, the 1st defendant and her husband detained her, due to which she was admitted in the hospital, thereafter, on 12.06.2010, she was driven out. Hence, she gave a complaint and she was permitted to stay in the house that too in the third floor. Due to old age more than 80 years, she is unable to climb. Considering all these circumstances, she cancelled the settlement deed on 15.09.2010 and executed a settlement deed in favour of other daughters including plaintiff and defendants 4 and 5. In fact, even after the alleged settlement deed, the plaintiff not maintained her, besides the settlement deed was obtained by misrepresentation. Therefore, she is entitled to get protection under the provision of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Hence, she prayed to dismiss the suit as no merit.



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6. On considering both side submissions, the trial judge has framed three issues and the foremost issue is “Whether the plaintiff is entitled for the relief of declaration as well as permanent injunction”

7. Before the trial court, the plaintiff examined herself as P.W.1 and documents Ex.A1 to Ex.A9 were marked. On the side of defendants, the 1st defendant was examined as D.W.1, the 3rd defendant was examined as D.W.2. The documents Ex.B1 to Ex.B5 were marked.

8. Considering the evidence as well as documents adduced on the side of both parties, the trial judge dismissed the suit by considering the subsequent circumstances developed between plaintiff, her husband and the 1st defendant as well as taking into consideration of documents relied on by the 1st defendant marked as Ex.B1 to Ex.B5, which proves that the 1st defendant was assaulted by plaintiff's husband, due to which she was admitted in the Kilpauk Medical Hospital. Even as per medical records, it was recorded that she was assaulted by her son-in-law, thereafter a complaint was lodged by the 1st defendant in the month of June 2010. CSR receipt was marked as Ex.B2, which shows that enquiry was conducted, wherein the plaintiff's husband gave undertaking that he would not quarrel



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with his mother-in-law, but thereafter he has continuously harassing.

Again, the 1st defendant gave a complaint before the Commissioner of Police. Thus, after the alleged settlement deed, atrocities was made by plaintiff and her husband. Therefore, the 1st defendant decided to cancel the settlement deed. Accordingly, she cancelled the settlement deed on 15.09.2010 (Ex.A3) and executed another settlement deed in favour of plaintiff as well as other daughters. Accordingly, the trial judge has held that the plaintiff not maintained her mother and she was forced to climb third floor, where she was permitted to reside. Further, by relying the recitals of alleged settlement deed, which discloses that under the fond hope and belief that the plaintiff would take care of 1st defendant and her husband till their life time with due care but the same has not been complied nor maintained the 1st defendant with due care by the plaintiff, on the other hand, they have harassed her. Therefore, the cancellation of settlement deed made by the 1st defendant as such is valid and justifiable one by relying the ratio laid down in the case of ***N. Nagaraj Vs. Schekar Raj***, thereby the suit was dismissed. Against the said findings, the plaintiff preferred this Appeal Suit and prayed to set aside the findings of



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trial judge by raising the following grounds :-

- (1) The judgment of the court below is perverse and against the binding precedents of this court and the Supreme Court of India.
- (2) The trial court failed to see that the 1st respondent along with her husband had executed a registered settlement deed in favour of the appellant in respect of the suit property and that the same was accepted by the appellant and acted upon by all concerned.
- (3) The learned IV Addl. Judge, City Civil Court failed to see that all the revenue records, property tax and water connection and EB service connection of the suit property stood transferred to the name of appellant after the above settlement deed was executed in her name.
- (4) The lower court failed to note that the defence witness had all accepted and admitted that the appellant collected all the rents from all the tenants in the suit property after the execution of settlement deed in her favour on 13.03.1997.



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- (5) The trial court failed to see that the settlement deed dated 13.03.1997 was an absolute settlement deed and was not conditional and irrevocable.
- (6) The court below failed to see that there was no stipulation in the above settlement deed and that it was conditional that the appellant should maintain the 1st respondent.
- (7) The learned judge failed to see that there was no pleading in the written statement of the defence that the above settlement deed was cancelled because the appellant failed to maintain the 1st respondent.
- (8) The learned judge failed to see that there was no pleading or evidence that the 1st respondent was abandoned by the appellant and that the latter failed to maintain the former.
- (9) The court below erred in holding that the appellant did not maintain her mother, but went one step ahead and harassed her.
- (10) The court below failed to see that the 1st respondent did



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not invoke the Senior Citizen Act, 2007 but registered a cancellation deed unilaterally, which she was not entitled to do and was not permissible in law.

- (11) The lower court failed to see that the settlement deed 13.03.1997 (Ex.A6) executed in favour of appellant by the 1st respondent and her husband is not a conditional settlement deed and it is irrevocable and absolute.
- (12) The court below failed to see that in Ex.A3 settlement deed, the donor 1st respondent has not reserved the right to cancel the said settlement deed in the event of any contingency. The deed is not executed with agreement between the donor and the donee that the donor can cancel the settlement deed in the event of the later not maintaining the former.
- (13) The lower court failed to see that in this case, Sec.126 of Transfer of Property Act is not attracted.
- (14) The learned Judge failed to see that in law a settlement deed once registered cannot be cancelled by the donor



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unilaterally and such unilateral cancellation is against public policy and void.

9. By submitting the aforesaid grounds, learned counsel for appellant argues that the 1st defendant, out of love and affection executed the settlement deed in favour of her daughter/plaintiff in the year 1997 without any condition. Subsequently, the 1st defendant unilaterally cancelled the said settlement deed in the year 2010 as such it would not bind the plaintiff. In the absence of any specific condition for providing maintenance, the 1st defendant also not entitled to avail any remedy under Sec.23 of Maintenance and Welfare of Parents and Senior Citizen Act, 2007, besides the registering authority also not entitled to cancel the settlement deed unilaterally. To support her contentions, she relied on the following authorities :-

(a) reported in **2021 (15) SCC 300** in the case of ***Rattan Singh and others vs. Nirmal Gil and others***, wherein the Apex Court held as follows :-

33. To appreciate the findings arrived at by the courts



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*below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We are therefore guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in **Prem Singh v. Birbal**. The relevant portion of the said decision reads as below :-*

“27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.”

(b) Reported in **2022 SCC Online SC 1684** in the case of **Sudesh Chhikara vs. Ramti Devi and another**, wherein the Apex Court held as follows :-

Family and Personal Law – Maintenance and Financial Provision/Alimony/Palimony – Maintenance and Welfare of Parents and Senior Citizens Act, 2007 – S.23(1) – Transfer of Property – Cancellation of – When permissible – Refusal to maintain transferor – Absence of specific condition or providing maintenance to transferor – Effect of – Held, refusal to maintain



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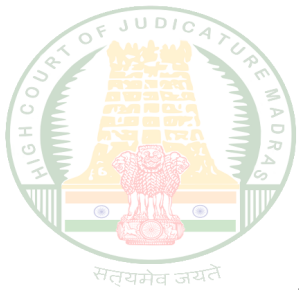
senior citizen not a ground for cancellation of transfer deed in absence of specific condition for providing maintenance to the transferor.”

(c) Reported in **2022 SCC Online Mad. 4343 : 2022 (7) Mad LJ 1 : AIR 2022 Mad 323** in the case of **Sasikala vs. Revenue Divisional Officer and another**, wherein this Court in paras 58, 59 and 60 held as follows :-

“58. From the discussions and conclusions we have reached above with reference to various provisions of Statutes and precedents, we reiterate the dictum of Hon'ble Supreme Court in Thota Ganga Laxmi and Ors.-vs- Government of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 and the Full Bench of this Court in Latif Estate Line India Ltd., case, reported in AIR 2011(Mad) 66 and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in Veena Singh's case reported in (2022) 7 SCC 1 and the judgment of two member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Ltd., case, reported in 2022 SCC On-line SC 544 for the following propositions:

(a) A sale deed or a deed of conveyance other than testamentary dispositions which is executed and registered cannot be unilaterally cancelled.

(b) Such unilateral cancellation of sale deed or a deed of conveyance is



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wholly void and non est and does not operate to execute, assign, limit or extinguish any right, title or interest in the property.

(c) Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.

(d) The transferee or any one claiming under him or her need not approach the civil Court and a Writ Petition is maintainable to challenge or nullify the registration.

(e) However, an absolute deed of sale or deed of conveyance which is duly executed by the transferor may be cancelled by the Civil Court at the instance of transferor as contemplated under [Section 31](#) of Specific Relief Act.

(f) As regards gift or settlement deed, a deed of revocation or cancellation is permissible only in a case which fall under [Section 126](#) of Transfer of Property Act, and the Registering Authority can accept the deed of cancellation of gift for registration subject to the conditions specified in para 42 of this judgment.

(g) The legal principles above stated by us cannot be applied to cancellation of Wills or power of Attorney deed which are revocable and not coupled with interest.

59. As a result of our forgoing conclusions, we answer the reference by holding that the Registrar has no power to accept the deed of cancellation to nullify the deed of conveyance made earlier, when the deed of conveyance has already been acted upon by the transferee. Since anyone may try to mislead or misinterpret our judgment by referring to the question of reference we insist that our answer to the reference should be understood in the light of our conclusions



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summarised in the previous paragraph.

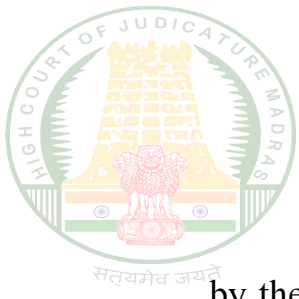
60. The writ petition in W.P(MD)No.6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under [Section 23](#) of the Maintenance and Welfare of Parents and [Senior Citizens Act](#) 2007. The gift deed executed by the second respondent in favour of the writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. The second respondent has specifically stated that he has no right to revoke the settlement deed. From the recitals, the settlement does not attract [Section 126](#) of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. In other words, the gift deed is not subject to any condition or terms that the transferor shall provide the basic amenities and basic physical needs to the second respondent. In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under [Section 23](#) of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Therefore, the order impugned is liable to be quashed. Even though we agree that the writ petition can be allowed, this Court is unable to decide the writ petition in this batch where question referred to us is different. Hence, the writ petition in W.P(MD)No.6889 of 2020 is de-linked and the Registry is directed to list the matter before the appropriate Bench.”



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10. By way of reply, the learned counsel for respondents/defendants argue that the plaintiff and her husband with ill-motive by way of misrepresentation obtained the alleged settlement deed from the 1st defendant. Thereafter, they have started to harass her and also not maintained the 1st defendant, who is mother of plaintiff though there is an implied condition stating that the plaintiff ought to look after the 1st defendant and her husband till her life time with due care. But, within a short period of alleged settlement deed, after the demise of 1st defendant's husband, she attempted to throw out her from the said house, for which she gave a complaint. Thereafter, the plaintiff's husband agreed not to cause any harassment to her, but she was given house in the third floor and failed to look after her. Therefore, the 1st defendant inclined to cancel the settlement deed as she was not maintained by the plaintiff. Thereafter, though she cancelled the settlement deed, executed another settlement deed by giving equal share to all the daughters including plaintiff and the same was rightly appreciated by the trial judge, which needs no interference. Further he would submit that the date of knowledge alleged



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by the plaintiff as such is not correct one, nearly about 17 years later, she come forward with the suit as such is also barred by limitation and she failed to establish her date of knowledge nor she filed suit from the date of cancellation. Therefore, the authorities relied on by the appellant is not applicable to the facts of present case. The decree passed by the trial judge is well-reasoned one. Hence, they prayed to dismiss the appeal as no merit.

11. Considering both side submissions, the points for consideration is as follows :-

(a) Whether the plaintiff is entitled for the relief of declaration to declare that the cancellation of registered settlement deed dated 15.01.2010 executed by the 1st defendant is invalid and not binding her?

(b) Whether the 1st defendant is entitled to come forward to cancel the settlement deed unilaterally?

12. Admittedly, the plaintiff is one of the daughter of 1st defendant. The relationship between the parties are undisputed fact. According to plaintiff, the suit property absolutely belong to her mother/1st defendant



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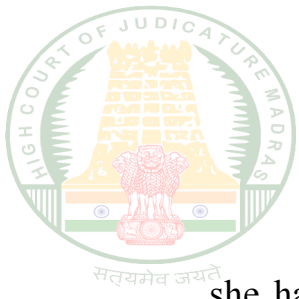
and out of love and affection, her mother and father executed a settlement deed in her favour on 13.03.1997 (Ex.A3) and the said settlement deed was duly acted upon. The possession was also handed over to her, thereby she claimed absolute right over the suit property. Further, she contended that as absolute owner with exclusive peaceful possession of the suit property, with the assistance of her husband, she put up concrete superstructure and comprising ground and first floor and she permitted her mother to live in a portion of suit property under the permissive possession. In the year 2016, the other defendants started to make a claim over the property. On verification, she found that the settlement deed was unilaterally cancelled in the year 2010. After obtaining certified copy of document, she filed the present suit in the year 2010 immediately from the date of knowledge. But, on perusal of records relied on by the 1st defendant, which disclosed that during the month of March 2010, mother of plaintiff was assaulted by the plaintiff's husband. Therefore, she was admitted in the Government Kilpauk Medical Hospital and the said O.P. receipt was marked as Ex.B1, wherein Doctor has recorded that the 1st defendant was assaulted by single known person on the cheek and hand and X-ray was suggested. Doctor



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also recorded that patient was assaulted by her son-in-law. As rightly observed by the trial judge, there is no contradictory evidence on the side of plaintiff on the said aspect nor the plaintiff has taken steps to examine her husband, who is son-in-law of the 1st defendant to disprove that no such occurrence was happened. Therefore, the silence on the side of plaintiff clearly implies that her husband attacked the 1st defendant, due to which she was admitted in the hospital during March 2010. Ex.B2 relied on by the 1st defendant also reveals that in the month of June 2010, the 1st defendant gave a complaint to the police, wherein she stated that her first daughter/plaintiff and her son-in-law Senthamarai attempted to throw out her from the house. Therefore, she gave a complaint to that effect to the police station and the same was also not disclosed by the plaintiff by adducing contra evidence. Further, she would also content that immediately after the complaint, son-in-law gave an undertaking that he would not cause any disturbance nor quarrel with mother-in-law and the alleged undertaking was also marked as Ex.B3. In spite of undertaking, son-in-law caused harassment. Therefore, the 1st defendant forced to give another complaint to the Superintendent of Police on 02.08.2010, wherein



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she has stated that her complaint has not been properly enquired and all these incidents took place from the month of March 2010 to August 2010. Thereafter, in the month of September 2010, the settlement deed was unilaterally cancelled by the 1st defendant stating that she executed the settlement deed on the hope that her daughter would take care of her, but due to harassment made by her, she inclined to cancel the said document.

13. By relying all the aforesaid circumstances, the learned counsel for respondents 1 to 4 argues that the plaintiff failed to maintain the 1st defendant till her life time as it was agreed while executing the settlement deed Ex.A3. Therefore, the 1st defendant is entitled to cancel the document under Sec.126 of Transfer of Property Act. Further, she would also content that she is also entitled to cancel the document as per the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Per contra, the learned counsel for appellant would submit that once the settlement deed was executed and the same was acted upon, the 1st defendant has no right to cancel the settlement deed unilaterally. Therefore, it would not bind the plaintiff. But, on perusal of Ex.A2 settlement deed, as



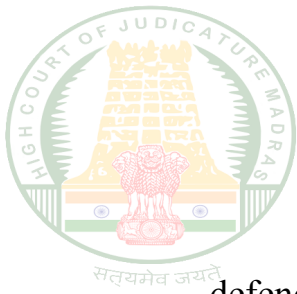
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rightly observed by the trial judge, there is a recital as follows :-

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“மேலும் நீயும் உனது கணவரும் சேர்ந்து எங்கள் இருவருக்கும் இதுவரையில் செய்து வந்த சவரட்சணைகளையும், எங்களுக்கு தேவையான உதவிகளையும் குறைவின்றி செய்து வருவதைப் போல இனி மேலும் எங்கள் ஜீவ திசை வரையில் செய்து கொடுக்கவும் எங்களை நல்ல முறையில் பாதுகாத்து வருவீர்கள் என்ற நம்பிக்கையில் இந்த செட்டில்மெண்ட் பத்திரம் எழுதிக் கொடுக்கிறோம்.”

The above recitals would clearly implies that under the fond hope and expectation that the plaintiff would maintain her mother/1st defendant and her father till their life time, so that the document was executed with conditions. But, the subsequent events through Ex.B1 to Ex.B5 would prove that the plaintiff's husband assaulted the 1st defendant and attempted to throw out her from the house, which clearly proves that the plaintiff not properly maintained her and harassed her, which clearly proves that the plaintiff not properly maintained her and harassed her by joining with her husband. Therefore, the 1st defendant decided to cancel the settlement deed, since the implied condition was not applied by the plaintiff. However, the learned counsel for appellant/plaintiff would argues that there is no condition was imposed in the Gift deed, therefore, the 1st



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defendant has no right to cancel the document unilaterally. But, considering the entire recitals of settlement deed Ex.A3, which clearly implies that the alleged settlement deed was executed by the 1st defendant in favour of plaintiff with the implied condition that she would maintain her till her life time. Therefore, it is a conditional settlement deed, when the condition was not complied, the 1st defendant is empowered to cancel the same under Sec.126 of Transfer of Property Act. Sec. 126 of the Act reads as follows:-

“126. When gift may be suspended or revoked The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.”



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14. Furthermore, under Sec. 23 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 also empowers the 1st defendant to cancel the document and sub-proviso (1) reads as follows :-

- (a) The transfer must have been made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor; and*
- (b) The transferee refuses or fails to provide such amenities and physical needs to the transferor;*

Since the plaintiff failed to maintain her mother aged about more than 80 years, the 1st defendant also proves that she was assaulted and harassed by the plaintiff and her husband and failed to maintain her as per the implied condition imposed in the settlement deed. Therefore, she is empowered to cancel the document. Accordingly, the issue No.2 is answered.

15. In view of the findings given for the issue No.2, the plaintiff is not entitled for the relief of declaration and the cancellation of settlement deed would bind her. Further, she come forward with the suit nearly about

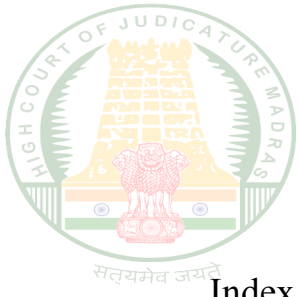


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17 years later from the date of such settlement deed, though she is residing in the portion of same property. Though she pleaded that she came to know only in the year 2016, as discussed above, in the year 2010, troubles started in the family. Therefore, the alleged reason stated by the plaintiff that she came to know about the cancellation of document only in the year 2016 as such is unbelievable one. So, she also failed to prove that she had filed the suit within three years from the date of cancellation of document. Though the ratio laid down in those case is acceptable, it is not applicable to the facts of the present case. As discussed above, there is a recital that the plaintiff has accepted to maintain her parents till their life time, but she failed and harassed the 1st defendant. Therefore, she cancelled the document and she revoked the settlement deed as such is valid under law. Therefore, the findings given by the trial judge needs no interference. Accordingly, this appeal is dismissed as no merit and the findings rendered in the suit in O.S.No. 5887 of 2017 is confirmed. Thus, suit is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

Speaking/Non-speaking order
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To

1. IV Addl. Judge, City Civil Court, Chennai.
2. Section Officer, VR Section, Madras High Court.



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