



W.P No.6653 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P No.6653 of 2019

and W.M.P Nos.7470, 7472 & 7475 of 2019

Sivamurugan

..... Petitioner

Vs

1.The District Collector cum Presiding Officer
Sub Divisional Magistrate (North)
Appellate Authority under the Maintenance
of Parents and Senior Citizens Act,2007
Saram, Puducherry

2.The Presiding Officer
Tribunal-I cum Sub Divisional Magistrate(North)
under the Maintenance of Parents and Senior
Citizens Ac, 2007
Saram, Puducherry

3.The Sub Registrar
Sub Registrar Office
Oulgaret, Puducherry

4.Jothimani

5.Subburayan

6.S.Karthick

7.Mala

8.Lakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, for



W.P No.6653 of 2019

issuance of a Writ of Certiorari, calling for the records pertaining to the orders passed by the second respondent on 21.06.2017 vide Ref. No.MWPSC No.07/2016/1601 and consequential order passed by the first respondent in Appeal No.2 of 2017 dated 19.02.2019 and quash the same as illegal, ultra vires, unconstitutional, non-est in the eye of law.

For Petitioner : Mrs.R.Renuka Devi
For R1 to R3 : Mr.V.Vasanthkumar
Additional Government Pleader
Puducherry
For R4 : Mr.S.Sathish
For R5 & R6 : No Appearance
R7 & R8 : Not ready in notice

ORDER

This writ petition has been filed for issuance of a Writ of Certiorari calling for the records pertaining to the orders passed by the second respondent on 21.06.2017 vide Ref. No.MWPSC No.07/2016/1601 and consequential order passed by the first respondent in Appeal No.2 of 2017 dated 19.02.2019 and quash the same as illegal, ultra vires, unconstitutional, non-est in the eye of law.

2. The case of the petitioner is that the 4th and 5th respondents are parents of the petitioner and the respondents 6 to 8 are brother and sisters of the petitioner. The 4th respondent made a complaint before the 2nd respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, on the premise that the settlement deed executed by the 4th

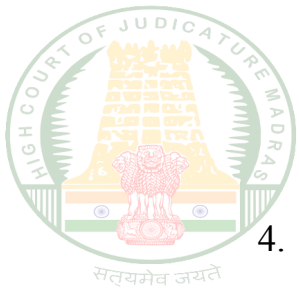


W.P No.6653 of 2019

respondent in favour of the petitioner sought to be cancelled, as if the petitioner

had not maintained the 4th and 5th respondents. The 2nd respondent allowed the complaint filed by the 4th respondent by setting aside the settlement deed executed by the 4th respondent in favour of the petitioner. As against which, the petitioner had preferred an appeal before the 1st respondent. The 1st respondent also confirmed the order passed by the 2nd respondent. As against the concurrent finding, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the issue arises in this writ petition is no longer res integra and the same was decided by the Hon'ble Full Bench of this Court in the case of **Sasikala v.Revenue Divisional officer and another** reported in **2022 SCC Online Madras 4343** wherein, the Full Bench of this held that in the absence of any specific condition in the settlement deed, if the settlement deed is irrevocable without any condition, the settlement deed cannot be cancelled by the authority under the Maintenance and Welfare of Parents and Senior Citizens Act and in view of the above decision, the order passed by the 2nd respondent which was confirmed by the 1st respondent is liable to be set aside and hence, he prays to allow this writ petition.



W.P No.6653 of 2019

4. However, the learned counsel appearing for the petitioner fairly submitted that the petitioner is ready to pay the maintenance amount to his parents as fixed by this Court.

5. Per contra, the learned counsel appearing for the 4th respondent would submit that admittedly, the 4th respondent had purchased a property for valuable sale consideration vide document No.1081 of 1991 dated 19.04.1991 and out of love and affection, the 4th respondent had executed a settlement deed in favour of her elder son, the petitioner herein, on the fond hope made by the petitioner that in future, he will take care of the 4th and 5th respondents. However, subsequent to the settlement deed, the petitioner had refused to take care of the 4th and 5th respondents and also the medical expenditure and daily needs were taken care by the other respondents namely, the respondents 6 to 9. In view of the harassment met by the 4th and 5th respondents, the 4th respondent made a complaint before the 2nd respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and the same was allowed and subsequently, the 1st respondent also confirmed the order passed by the 2nd respondent. The concurrent finding rendered by the fact finding authority, need not be interfered with in terms of Article 226 of Constitution of India. In support of his contention, the learned counsel



W.P No.6653 of 2019

appearing for the 4th respondent relied upon the decision of the Division Bench of this Court in W.A No.3582 of 2024, on the fond hope the implied condition mentioned in the settlement deed and the condition was violated by the petitioner, thereby the 2nd respondent had cancelled the settlement deed which does not need any interference by this Court.

6. Heard the learned counsel on either side and perused the materials on record.

7. The facts of case is not in dispute. The relationship of the petitioner and the private respondents is also not in dispute. The 4th respondent/mother executed a settlement deed in favour of the her elder son, the petitioner herein on 03.12.2012 to an extent of 1300 sq.ft. Apart from that, on the same day, the 4th respondent had also executed another settlement in favour of the petitioner's another brother. It is equally undisputed fact that as against the another brother, namely the 6th respondent, no complaint was made before the 2nd respondent except the 4th respondent elder son. On the same day, both the 4th and 5th respondents executed a settlement deed in favour of the petitioner and the 6th respondent. However, the 4th respondent made a complaint as against her elder son, the petitioner herein before the 2nd respondent for cancellation of the



W.P No.6653 of 2019

settlement deed on the ground that the petitioner had violated the condition.

WEB COPY

8. In order to ascertain any condition is imposed in the settlement deed, this Court perused the settlement deed executed by the 4th respondent in favour of the petitioner. On perusal of the same, it is revealed that no expressed condition was imposed in the settlement deed either by receiving the life interest or by cancellation of the settlement deed in future, if the petitioner is not taken care of the 4th respondent. In the absence of any specific condition in the settlement, the same cannot be cancelled by the 1st and 2nd respondents. In this back ground, it is worthwhile to mention Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, where the Act imposes a condition where any senior citizen who after commencement of this Act had transferred the property by way of settlement deed or otherwise subject to the condition that the transferee would provide basic amenities and physical needs. However, in the present case, such a condition was not mentioned in the settlement deed. It is only an expectation from the petitioner's elder son. That expectation will not be a condition.

9. On perusal of the Division Bench judgment in the case of **S.Mala v. 1.District Arbitrator & District Collector, Nagapattinam and 5 others** in **W.A.No.3582 of 2024 dated 06.03.2025**, wherein the Division Bench followed



the *Urmila Dixit* case reported in **2025 SCC Online SC 2**. Even as per para 25,

makes it clear that the Act empowers the senior citizen to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee and the similar issue was considered by the Full Bench of this Court. The decision rendered by the Full Bench of this Court is as follows.

56. Section 126 of the Transfer of Property Act recognizes the power of revocation where the donor reserves a right to suspend or revoke the gift on happening of any specified event. However, the illustrations clarify that the revocation should be with the assent of the donee and it shall not be at the will of donor as a gift revocable at the mere Will of the donor is void. The Sub-registrar cannot decide whether there was consent for revocation outside the document. If the donor by himself reserves a right to revoke the gift at his Will without the assent by donee, the gift itself is void. Since we are dealing with unilateral cancellation, the power of registration of cancellation or revocation of gift deed cannot be left to the discretion or wisdom of registering authority on facts which are not available or discernible from the deed of gift. When the power of revocation is reserved under the document, it is permissible to the registering officer to accept the document revoking the gift for registration only in cases where the following conditions are satisfied;

(a) There must be an agreement between the donor and donee that on the happening of a specified event which does not depend on the Will of the donor the gift shall be suspended or revoked by the donor.

(b) Such agreement shall be mutual and expressive and seen from the document of gift.

(c) Cases which do not fall under Section 126 of Transfer of Property Act, unless the cancellation of Gift or Settlement is mutual, the registering authority shall not rely upon the self serving statements or recitals in the cancellation deed. For example questioning whether the gift deed was accepted or acted upon cannot be decided by the registering authority for the purpose of cancelling the registration of gift or settlement deed.

57. The donor must specifically reserves such right to suspend or revoke the gift deed with the consent of donee to attract Section 126 of the Transfer of Property Act. Unless the agreement is mutual, expressed in



WEB COPY



W.P No.6653 of 2019

the recitals, the Registering Authority cannot accept the document for registration. However, the factual allegations with regard to the acceptance of gift or the issue where the gift was acted upon or not do not come under the purview of the Registering Officer. Hence, the Registering Officer is not excepted to accept the document unilaterally cancelling the gift deed, merely on the basis of the statement of the donor or the recitals in the document for cancellation.

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 v. Government of Andhra Pradesh, 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 OnLine 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 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 summarised in the previous paragraph.

The decision on individual cases:

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.

61. In view of our conclusions and answer to the reference, the writ petition in W.P. (MD) Nos. 11674 of 2015 and 8330 of 2020 are allowed. The writ petition in W.P. (MD) No. 13297 of 2020 is dismissed. Similarly, the writ appeal in W.A. (MD) No. 800 of 2022 is dismissed. In all cases, it is open to the aggrieved person to file a civil suit challenging the gift or settlement deed as may be permissible under Section 31 of the Specific Relief Act. No costs. Consequently, connected miscellaneous petition is closed.



W.P No.6653 of 2019

Applying the ratio laid down by the Full Bench of this Court, the orders of the

1st and 2nd respondents are set aside.

11. Now the issue before this Court is with regard to the maintenance application filed by the 4th respondent before the 2nd respondent, whether the 4th respondent is entitled to claim maintenance amount and further, the question cast upon the petitioner is, to maintain his old age parents and he cannot withheld his liability. Now, the petitioner has come forward to pay a reasonable amount. In view of the same, this Court is inclined to direct the petitioner to pay a sum of Rs.15,000/- as monthly maintenance to the 4th and 5th respondents and the said amount shall be payable on or before 7th of every month and also pay a sum of Rs.7,500/- from the date of 1st respondent's order 19.02.2019 to till date, in favour of the 4th respondent's bank account. If the petitioner failed to pay the said amount, liberty is granted to the 4th respondent to report before this Court for non-compliance of the order.

12. With the above directions, this writ petitions stands allowed.

No costs. Consequently, the connected miscellaneous petitions are closed.

11.09.2025



W.P No.6653 of 2019

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order
uma

To

1.The District Collector cum Presiding Officer
Sub Divisional Magistrate (North)
Appellate Authority under the Maintenance
of Parents and Senior Citizens Act,2007
Saram, Puducherry

2.The Presiding Officer
Tribunal-I cum Sub Divisional Magistrate(North)
under the Maintenance of Parents and Senior
Citizens Ac, 2007
Saram, Puducherry

3.The Sub Registrar
Sub Registrar Office
Oulgaret, Puducherry

M.DHANDAPANI, J.

uma



WEB COPY



W.P No.6653 of 2019

W.P No.6653 of 2019
and
W.M.P Nos.7470, 7472 &
7475 of 2019

11.09.2025