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WA No. 1001 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

WA No. 1001 of 2023

1. J.Chakrabani

Appellant(s)

Vs

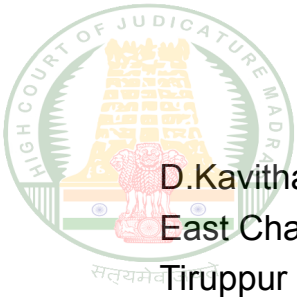
1. The District Collector
Tiruppur District.

2.THE EXECUTIVE MAGISTRATE
And Revenue Divisional officer,
Tiruppur District.

3.The Sub Registrar
Sathiyamangalam, Erode District.

4.The Sub Registrar
Uthukuli, Tiruppur District.

5.Minor.D.Soundarya
Rep by her Natural Guardian, Mother



D.Kavitha, Old No. 57/ New No. 81,
East Chariot Road, Uthukuli Town,
Tiruppur District.

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6.Minor. U.D.Thiru.Vishnuvardhan
(minor)
Rep by his Natural Guardian, Mother
D.Kavitha, Old No. 57/ New No. 81,
East Chariot Road, Uthukuli Town,
Tiruppur District.

7.D.Kavitha
W/o.Late Durairaj, Old No.57 / New
No.81, East Chariot Road, Uthukuli
Town, Tiruppur District.

Respondent(s)

PRAYER

To set aside the Order passed by the learned Judge in WP.No. 4818 of 2022 dated 14.02.2023.

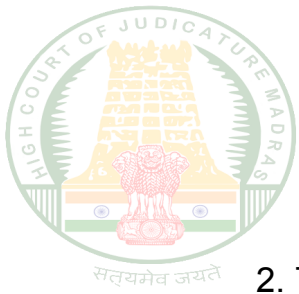
For Appellant(s): Mr.K.R.Arun Anbumani
for Mr.S.Dhilipan

For Respondent: Mr.S.Senthilkumar
Special Government Pleader

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The present intra court appeal has been instituted to assail the writ order dated 14.02.2023 passed in W.P.No.4818 of 2022.



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2. The writ petitioner is the appellant herein before this Court. The facts in a nutshell reveal that the father of the appellant, Late Jayabalan, executed two settlement deeds dated 13.01.2014 and 31.12.2014 in favour of the appellant herein, bequeathing some of the properties. Similarly, settlement deeds were executed in favour of the elder son of the deceased senior citizen. The senior citizen filed a complaint before the Revenue Divisional Officer/Tribunal under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, seeking cancellation of settlement deed mainly on the ground that the appellant failed to maintain the senior citizen. The Tribunal adjudicated the issues by affording opportunity to the parties. The Senior Citizen deposed before the Tribunal that the appellant/younger son by way of coercion, executed settlement deeds by promising that he will take care of him during his life time. Since the appellant failed to honour his commitments, senior citizen filed a police complaint. Negotiation meeting was conducted by the Deputy Superintendent of Police in his office, and the appellant promised that he will pay monthly maintenance to the senior citizen. Since the appellant failed to pay maintenance amount as

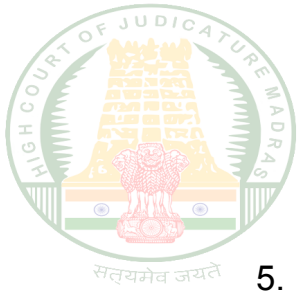


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promised by him before the Deputy Superintendent of Police, the Senior Citizen was constrained to file a complaint under the Senior Citizens Act. The Revenue Divisional Officer adjudicated the issues and made a finding that the appellant failed to maintain the senior citizen during his life time. Since the appellant failed in his duty as mandated under the Senior Citizens Act, the settlement deed in Doc Nos.4548 of 2014 dated 03.12.2014 and 584 of 2014, dated 04.02.2014, executed in favour of the appellant by the senior citizen were cancelled.

3. During his life time, the senior citizen executed two settlement deeds in favour of his grandchildren and subsequently, died on 23.07.2021. The appellant preferred an appeal before the District Collector, since the appeal is not maintainable under the Act, it was rejected. Thus, the writ petition came to be instituted.

4. The Writ Court considered the issues and held that the appellant has to approach the competent Civil Court of law for the purpose of redressing his grievances.



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5. The learned counsel for the appellant would mainly contend that since the order passed by the Tribunal/Revenue Divisional Officer under the Senior Citizens Act is in force, the appellant cannot approach the Civil Court for effective adjudication. That apart, the jurisdiction of the Civil Court is barred under Section 27 of the Senior Citizens Act. Therefore, testing the validity of the said order would be imminent for the purpose of giving quintessence to the issue.

6. The statement of the deceased senior citizen is clear about the non-maintenance of the senior citizen during his life time and after execution of settlement deeds. It reveals that the settlement deeds were executed by giving false promises. The statement has been considered by the Tribunal/Revenue Divisional Officer, and this Court does not find any infirmity in respect of the order dated 25.01.2021 impugned in the writ proceedings. The Writ Court ought to have considered the findings of the Tribunal/Revenue Divisional Officer made in proceedings dated 25.01.2021. During existence of the said order, parties may not be in a position to approach the Civil Court in



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respect of other settlement deeds executed in favour of grandchildren. As far as the settlement deeds subjected under Senior Citizens Act are concerned, this Court is of the considered view that the order dated 25.01.2021 issued by the Revenue Divisional Officer under the Act is in conformity with the provisions of the Act.

7. The legal positions are considered by this Court elaborately in the case of ***S.Rajan Vs. R.Srinivasan, District Collector and Others***¹ and the relevant portions are extracted hereunder,

“(A). Indian Constitution and Senior Citizens Act:

23. The essence of law is to serve and secure social solidarity, ensuring that individuals fulfill their obligations as members of society. Social welfare legislations emerge as instruments of justice, designed to safeguard vulnerable groups and maintain societal balance. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a significant enactment that embodies this philosophy by protecting the rights and dignity of elderly citizens of our great nation.

¹ 2025 MHC 849



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24. *Welfare systems differ across countries, but they commonly provide support to the poor, unemployed, disabled individuals, the elderly and those with dependent children. In a broader sense, welfare refers to the overall well-being of individuals or groups, encompassing health, happiness, safety, economic prosperity, and social security. A truly welfare-oriented state ensures not just basic needs but also a dignified and fulfilling life for its citizens. Providing for the welfare of the general public is a fundamental responsibility of the Government.*

25. *The Senior Citizens Act, 2007 is a direct reflection of these constitutional philosophy and ethos, ensuring that the elderly, who have contributed to society throughout their lives, are not abandoned or deprived of their basic necessities and physical needs. The vision of Article 41 of the Constitution of India is to protect the rights and interest of senior citizens and enable them to lead a life with dignity and respect. Thus, the Act provide a comprehensive framework for ensuring the well-being of senior citizens of our great nation.*



26. *The United Nations Universal Declaration of Human Rights, 1948, recognizes human dignity as a fundamental aspect of human rights. Ensuring a dignified life for all individuals is a primary duty of the State. Addressing concerns about the treatment of older persons, the Open-Ended Group on Ageing, in its first session, observed that:"Another central challenge for older persons is living with dignity. The very process of ageing could threaten older people's dignity as they were perceived by others to be inherently less valuable to society. Independence, participation, and autonomy were critical components of dignity. In particular, older persons should be perceived as active members of their societies and not only as recipients of social protection²"*

27. *Despite the constitutional assurances, ensuring a dignified life for senior citizens remains a challenge in contemporary society. While Article 21 guarantees the right to life and personal liberty, the*

²These observations were noted by the Chair, while submitting the report of the First Open Ended Working Group on Aging.



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meaning of a dignified life in old age depends on the legitimate needs of senior citizens.

28. The Supreme Court, in **F.Francis Coralie Mullin v. Administrator, Union Territory of Delhi**³ expanded the scope of Article 21 of the Constitution of India, recognizing that:

"We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self."

29. This interpretation of Article 21 reinforces the right of senior citizens to a dignified life

³ A.I.R. 1981 746.



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in their old age. As individuals grow older, they often become financially, physically, and emotionally dependent on their families or society. However, neglect, abandonment, and lack of proper care have become serious issues affecting the elderly.

(B). The Scheme Under the Senior Citizens Act:

30. *The statement of objects and reasons of the Bill which was introduced in the Parliament declares as follows:*

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence there is a need to have simple, inexpensive and speedy provisions to claim maintenance for



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parents. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up oldage homes for providing maintenance to the indigent older persons. The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.”

31. *The law has been made in order to cast an obligation on the persons, who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up oldage homes for providing maintenance to the indigent older persons and also to provide better medical facilities to the senior citizens and provisions for protection of their life and property, etc.*

32. *The objectives of the Act are summarised as follows:*

a) *To provide for appropriate mechanism to be set-up to provide need-based maintenance to the parents and senior citizens from their children, grandchildren or relatives as the case may be,*



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b) *To provide for adequate medical facilities to senior citizens,*

c) *To provide for a suitable mechanism for protection of life and property of senior citizens,*

d) *To provide for penal provision for abandonment of senior citizens,*

e) *To provide facilities for poor and destitute senior citizens,*

f) *To provide for setting up of old age homes in every district.*

33. *The Senior Citizen Act is principally welfare legislation. However, as it deals with two class of people; First, **parent** [Section 2(h) 'Senior citizen' means "any person being a citizen of India, who has attained the age of sixty years or above."], **who may or may not be senior citizens**, and second, **senior citizens**. There is a possibility of the two groups of people aligning congruently.*

34. *The Act refers to two terms, which can be read in conjunction, '**maintenance**' and '**welfare**'. Section 2(b) of the Act states*



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Maintenance 'includes provision for food, clothing, residence and medical attendance and treatment' and 'Welfare' 'means provisions for food, health care, recreation centres and other amenities necessary for the senior citizens.'

35. For entitlement of maintenance under the Act, it is not necessary that parents must be senior citizens, meaning thereby parents need not have attained the threshold age of 60 years or more. Parents and senior citizens are two classes complete and exclusive in themselves. This is the reason section 4 of the Act provides entitlement to both to get maintenance.

36. Section 4 reads as

'Maintenance of Parents and Senior Citizens:

1. A senior citizen including parent who is unable to maintain himself from his own earning or property owned by him, shall be entitled to make an application under section 5 in case of—

i. parent or grand-parent, against one or more of his children not being a minor



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ii. a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

2. The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

3. The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

4. Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen :

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.'

37. The scope of 'maintenance' includes



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*within its ambit food, clothing residence, medical attendance and treatment. The same shall be considered while deciding maintenance allowance irrespective of gender of parent. But if, an application is filed by senior citizens against relative who would probably inherit that property the maintenance order shall be considered from the point of view of 'welfare' which 'means provisions for food, health care, recreation centres, and other amenities necessary for the senior citizens'. **Defining the two terms distinctively may have two connotations but whenever there is question of maintenance or welfare of life and survival of parents and senior citizens, both definitions must be seen from a cumulative perspective whereby life includes conducive conditions for a normal life inclusive of dignity.***

38. The term normal life should be considered as containing within its scope dignified life while deciding maintenance or passing order for welfare measures. In case of **Dr. Ashwani Kumar v. Union of India**⁴ Supreme Court opines:

4 (2019) 2 SCC 636



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‘We accept that the right to life provided for in Article 21 of the Constitution must be given an expansive meaning. The right to life, we acknowledge, encompasses several rights but for the time being we are concerned with three important constitutional rights, each one of them being basic and fundamental. These rights articulated by the petitioner are the right to live with dignity, the right to shelter and the right to health. The State is obligated to ensure that these fundamental rights are not only protected but are enforced and made available to all citizens.’

39. Children includes son, daughter, grandson and grand-daughter but does not include a minor.’ [Section 2(a).] **Relative** means ‘any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death.’ [Section 2(g).] Both words should be seen together to decipher the exact position of maintenance of parents and senior citizens. The purpose of providing definition of ‘children’ is basically to cover the matters of maintenance of parents. Children are primarily the respondents in cases of application for maintenance before the Tribunal under **section 4**. ‘Parents’ and ‘senior



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citizens' both are eligible to file an application for maintenance in case of their inability to maintain themselves. **Senior citizens, who do not have any child, have also been extended protection but the process and measures differ.**

40. In order to meet the objective of the statute, there have been instances where sons and daughters in law have been called for maintaining the parents and senior citizens. However, the definition of children and relatives should include the sons or daughters in law and therefore, changes in the provisions of the law is needed. **[Balbir Kaur v. Presiding officer Cum SDM]⁵. This change is exacerbated by the fact that there are parents and senior citizens who do not have any child within the statutory sense of the term but require maintenance and welfare. Furthermore, an expansive meaning of the term would help ensure that no parent or senior citizen is left out of the umbrella of the welfare.**

41. Application for maintenance mentioned under **section 4** may be filed by a senior citizen or a

5 2015 SCC OnLine P&H 260



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parent as the case may be : or if he or she is incapable, by any other person or organization authorized by him or her; or if the facts come to the knowledge of the tribunal it may take suo motu cognizance of the fact. In respect of the jurisdiction where such an application maybe filed, **section 6** provides that the application may be filed where he or she resides or last resided or where the defendant i.e. children or relative as the case may be, reside. The term 'organization' has been explained in **section 5** which means any voluntary association registered under the Societies Registration Act, 1860, or any other law for the time being in force. This is the duty of State Government to constitute the tribunal for each sub-division, which shall be presided over by an officer not below the rank of Sub-divisional officer of a state.

(C). Interpretation and Scope of Section 23 of the Senior Citizens Act:

42. The preamble as well as the statement of objects and reasons clearly shows that the intention of the Parliament in enacting the law and



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the purpose of the law has to be gathered in interpretative process. Sec. 23(1) provides that any senior citizen who, after the commencement of the abovesaid Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence etc.

43. Clause (1) of section 23 lays down following conditions for transfer of property by senior citizens:

(a) transferee shall provide the basic amenities and basic physical needs to the transferor and

(b) such transferee refuses or fails to provide such amenities and physical needs.

44. Many a times, senior citizens either to fulfill the demands of their children or out of love and affection transfer their properties in favour of the latter. Section 23(1) of the Act comes to the rescue



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of the former if they are ill-treated or neglected by their children/relative after such transfer. Under Section 23(1), such transfer is revocable at the option of the senior citizen. It provides that where a senior citizen has transferred his property by way of a gift deed or otherwise, subject to the condition that the transferee shall provide basic amenities and physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the transfer of such property shall be deemed to have been made by fraud or coercion, or under undue influence⁶

45. In the case of **Promil Tomar and Ors v. State of Haryana and Ors**⁷ it was held that the word “**otherwise**” used under Section 23(1) of the Act would include transfer of ownership, possession by way of a lease deed, mortgage, licence, gift or sale deed.

“The word “otherwise” cannot be ignored for the objective of Section 23 (1) of the Maintenance Act. In context to the

⁶ Shabeen Martin v. Muriel, (2016) 4 KLJ 699

⁷ 2013 SCC OnLine P&H 26819



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objectives of the Act, "transfer" would mean that transfer of property by senior citizen need not be a gift only but it could be any transfer within the meaning of Transfer of Property Act or would even include transferring of any right of the nature of title or possession... A senior citizen who had transferred his right, title or interest to any other person by gift or otherwise (which would include transfer of possession by lease, mortgage or licence) would become void in the event of transferee refusing to provide amenities and physical needs. The said transfer in such circumstances would be termed as fraud and would be void."

46. *The plain language of Section 23 does not require the condition referred to therein namely the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, to be stated in writing in the document that transfers the property or in any other document. The "condition" can be either express or implied and should be understood based on the conduct of the transferee before and after the execution of gift/ settlement deed.*

47. *In Smt. Sunita Bhasin v. State of NCT*



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of Delhi⁸ held that, it is implicit in any gift of property, that is executed out of natural love and affection, that the transferee would reciprocate the love and affection and, at the very least, provide the basic amenities and meet the physical needs of the donor and express stipulation that the gift deed has been made on an understanding that the transferee would look after the basic needs of the donor is not necessary.

48. As per **Section 17 of the Indian Contract Act, 1872**, “**fraud**” includes any promise made without an intention of performing it. The third proviso to **Section 92 of the Indian Evidence Act, 1872** provides that the existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under such contract, grant or disposition of property may be proved. Thus, it is evident that there is no requirement even under law that the “condition” should form part of the written document .

8 W.P.(C) 13139/2018



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49. Section 122 of the Transfer of Property Act, 1882 (herein “TP Act”) defines a gift as any transfer of certain existing movable and immovable properties made voluntarily without any consideration. **Section 126** of the TP Act provides for the suspension or revocation of a gift on happening of any specified event upon which the donor and donee have agreed upon. Condition for maintenance during old age cannot be assumed as a consideration for gift. More so, consideration specified under Section 122 refers to monetary consideration and natural love and affection. The gift/settlement deed on a promise that the donee will look after the donor at the old age is a transaction without consideration. It is, therefore, clear that there is no inconsistency between the provisions of the TP Act and Section 23(1) of the Act.

50. Moreover, Section 23(1) is only an addition to the provisions of the TP Act as it provides additional safeguards to the senior citizens. Even if there is any inconsistency between Section 23(1) and provisions of the TP Act, the former will prevail



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*not because it has an overriding effect over the other laws for the time being in force but, based on the legal maxim “**Generaliaspecialibus non derogant**”, i.e., **special enactment (the Act) prevails over the general enactment** (TP Act – a general law relating to transfer of property).*

51. Thus, while construing the provisions of Sec. 23 it is to be borne in mind that in common law, a person could get a justiciable cause of action so as to seek setting aside of a transfer deed like gift deed, settlement deed, etc. only on limited grounds of actual fraud, misrepresentation, coercion and undue influence, incompetency, etc. But with the legislative intervention through the special provision in Sec. 23, a senior citizen is enabled to seek setting aside of a transfer deed like settlement deed, gift deed, etc. if he has so transferred the property with the **explicit or implicit condition** that the transferee shall provide the basic amenities and necessities to him and in case of violation of such condition, then a legal fiction is created that due to such violation, it shall be deemed that the transfer of property shall be deemed to have been made by fraud or coercion or



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misrepresentation.

52. So at the option of the transferor-senior citizen, he could seek the voiding of such transfer by the Tribunal in those contingencies. **So it creates an extra-ordinary remedy by such legislative intervention to aid the senior citizen.** The creation of such legal fiction of “deemed fraud/coercion/undue influence” by the above enactment is indeed a serious inroad into the common law position of having to plead and prove actual fraud/coercion/undue influence, etc. **So the said provision in Sec. 23 has to be interpreted and construed not only as a welfare legislation, but also strictly, due to such serious substantial inroads made to the common law scenario.**

53. It is not provided in explicit and clear terms in Sec. 23 as to whether the transferee against whom the relief under Sec. 23 is sought for by the transferor senior citizen should necessarily be confined to transferees who are relatives or children



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of the senior citizen/parent. Sec. 2(g) of the abovesaid Act defines a “relative” and Sec. 2(a) thereof defines the term, “children” to include son, daughter, grandson and grand-daughter but does not include a minor.

54. The definitions' clause as per Sec. 2 of the Maintenance and Welfare of Parents and Senior Citizens Act clearly insists for a contextual understanding of the various sub clauses therein, as it stipulates that the various definitions are to be so understood, “unless the context otherwise require”. The relevance and necessity for adherence to contextual interpretation in appropriate cases has been underscored by the Apex Court and various High Courts in a catena of rulings.

*55. It would also be pertinent to refer to the canons of interpretative construction based on the **principle of purposive interpretation or purposive construction**. It will be relevant in that regard to refer to the views of **Aharon Barak**, the eminent*



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jurist and former President of the Supreme Court of Israel, who in his illuminating treatise “Purposive Interpretation in Law” has pithily put it as follows: “Purposive interpretation is based on three components : language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal meaning of the text from among the (express or implied) semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language.”

56. As held by the Apex Court in the judgement in **Shailesh Dhairyaman v. Mohan Balakrishna Lulla**, reported in (2016) 3 SCC 619 p.641 para 31, that the principle of “purposive interpretation” or “purposive construction” is based on the understanding that the court is supposed to attach that meaning to the provisions which serve the “purpose” behind such a provision. The basic



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approach is to ascertain what is it designed to accomplish? And to put it otherwise to interpretative process the court is supposed to realise the goal that the legal test is designed to realise, etc.

57. Thus, the provisions of the Act, including Section 23, must be read liberally and in a purposive manner. The principal object of the Act is to enable the senior citizens and parents to secure their basic physical needs and amenities and to void any transfers made with the understanding that their needs would be looked after by the transferee, if the transferee fails to live-up to the said commitment.

(D). Summary Procedure for Speedy Relief:

58. While Section 23 of the Act provides a legal remedy for senior citizens to reclaim their property transferred under coercion, undue influence, or fraud, Section 8 plays a crucial role in ensuring that such relief is granted in an expeditious manner.

59. Section 8 of the Act mandates that the Maintenance Tribunal shall adopt a summary procedure while conducting inquiries. This provision



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ensures that senior citizens do not have to go through lengthy litigation to secure their rights, thereby making the remedies under the Act more accessible and effective.

60. *The key features of Section 8 include:*

1. *Expedited Proceedings – The Tribunal is empowered to conduct an inquiry in a summary manner, meaning that cases are resolved without unnecessary procedural delays.*

2. *Quasi-Judicial Powers – The Tribunal possesses the powers of a Civil Court for summoning evidence, enforcing the attendance of witnesses, and compelling the production of documents.*

3. *No Full Adjudication of Title Required – Senior citizens seeking eviction of abusive children/legal heirs or reclaiming transferred property need only demonstrate some right, title, or interest in the property, rather than proving absolute ownership.*

61. *The summary nature of proceedings under Section 8 aligns with the spirit of the Act,*



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which is to provide swift and effective justice to senior citizens facing neglect, harassment, or financial exploitation.

62. *Additionally, Maintenance Tribunals, while adjudicating claims under Section 23, must take into consideration the need for prompt intervention. They have the discretion to call for relevant documents, including encumbrance certificates, to assess property claims. However, requiring a full title adjudication would go against the very objective of the Act, which is designed to provide immediate relief to senior citizens.*

63. *Thus, Section 8 complements Section 23 by ensuring that the rights conferred under the Act are enforced without procedural hurdles.*

64. *The relevant portion of the judgment of this Court in the case of **S.Mala Vs. The District Arbitrator**, is extracted as follows,*

“....

(D) Case Laws on Senior Citizens Act:

36. *The Three Judges Bench of the Hon'ble Supreme Court of India in the case of **S.Vanitha vs. Deputy Commissioner,***



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Bengaluru Urban District and Others⁴, elaborately considered the legislative scheme, rights of residence, safeguarding against domestic violence etc. In Paragraph No.24 of the judgment, the Apex Court considered the distinction between sub-sections (1) and (2) of Section 23. The conditions stipulated expressly have been considered by the Court, but the scope of interpretation, the beneficial construction and the need for the protection needs to be extended impliedly under the Senior Citizens Act, have not been examined into by the Apex Court in **S.Vanitha's case** cited supra. Therefore, the expressed provision made under Section 23(1) of the Act is one aspect of the matter and the scope of certain implied benefits conferred under Section 23 to the Senior Citizens is another aspect of the matter, which is to be considered by this Court in the context of the facts of each case.

37. In the case of **Sudesh Chhikara vs. Ramti Devi and Others⁵** in paragraph No.13, the Hon'ble Supreme Court made an observation as under;

“

13. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, **a condition of looking after the senior citizen is not necessarily attached to it. On**

4 2021 15 SCC 730

5 MANU/SC/1581/2022



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the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of **Section 23** are attached to a transfer, existence of such conditions must be established before the Tribunal.”

38. The Hon'ble Supreme Court in the above case regarding the scope of Section 23(1) of the Act, made an observation that “On the contrary, very often, such transfers are made out of love and affection without any expectation in return”. It would be sufficient to form an opinion that the Apex Court considered the implied conditions in the said case. However, the Apex Court further observed by stating that, if it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, the existence of such conditions must be established. Therefore, the Apex Court considered that, very often transfers are made out of love and affection, and in the event of any conditions expressly made in the document, it must be established.

39. Importantly, in **Urmila Dixit's** case cited



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supra, the Hon'ble Supreme Court further clarified the scope of Senior Citizens Act in Paragraph Nos.23, 24 and 25, which reads as under,

“.....

23. The Appellant has submitted before us that such an undertaking stands grossly unfulfilled, and in her petition under Section 23, it has been averred that there is a breakdown of peaceful relations inter se the parties. In such a situation, the two conditions mentioned in Sudesh (supra) must be appropriately interpreted to further the beneficial nature of the legislation and not strictly which would render otiose the intent of the legislature. Therefore, the Single Judge of the High Court and the tribunals below had rightly held the Gift Deed to be cancelled since the conditions for the well-being of the senior citizens were not complied with. We are unable to agree with the view taken by the Division Bench, because it takes a strict view of a beneficial legislation.

24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the competency of the Tribunal to hand over possession of the property. In *S. Vanitha (supra)*, this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted



under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.

25. Another observation of the High Court that must be clarified, is Section 23 being a standalone provision of the Act. In our considered view, the relief available to senior citizens under Section 23 is intrinsically linked with the statement of objects and reasons of the Act, that elderly citizens of our country, in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee.

*40. The Apex Court in the above judgment has considered the case of **S.Vanitha** cited supra. The Hon'ble Supreme Court in the case of **Urmila Dixit** cited supra culled out the legal proposition that, even an implied condition i.e., love and affection for execution of gift or settlement deed would be sufficient enough for nullifying the documents. The intent of the legislature has been considered by the Apex Court.*



41. In the case of **Mohamed Dayan vs. The District Collector, Tiruppur District and Others⁶**, the Single Judge of this Court (SMSJ) considered the scope of the Senior Citizens Act and the judgment of the Kerala High Court was also taken into consideration. The relevant paragraphs are extracted herein under,

“.....

34. In the context of the adoption of the phrase “lead a normal life” Rule 20(2)(i) of the Maintenance of Senior Citizen Rules, enumerates that “it shall be the duty of the District Collector to ensure that life and property of senior citizens of the District are protected and they are able to live with security and dignity”. Therefore, normal life includes security and dignity. Thus the normal life as indicated under [Section 4\(2\)](#) of the Act, is not mere life, but a life with security and dignity. In the context of [Article 21](#) of the Constitution of India, life includes decent medical facility, food, shelter with dignity and security. All such combined necessities of human life is falling under the term “Normal Life” emboldened under [Section 4\(2\)](#) of the Senior Citizen Act. Therefore, simply providing food and shelter would be insufficient. But life includes providing of decent medical facilities, food,

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shelter and other requirements with dignity in commensuration with the status of the family and taking into consideration of the living style of the senior citizen throughout.

.....

.....

38. The Kerala High Court observed in the case of *Radhamani and Others* (cited *supra*), Section 23(1) of the Senior Citizen Act, cannot be interpreted to the disadvantage of the senior citizen. [Section 23\(1\)](#) of the Act contemplates that “Where any senior citizen who, after the commencement of this Act, has by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal”. The phrase “subject to the condition that the transferee shall provide the basic amenities” does not mean that the Gift or Settlement Deed should contain any such condition expressly. “Subject to the condition” as employed in [Section 23\(1\)](#), is to be holistically understood with reference to the subsequent phrase i.e., “deemed to have been made by fraud or coercion or undue influence”. Both the phrases would amplify that the deeming clause should be considered so as to form an opinion that the



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phrase “subject to condition” amounts to an implied condition to maintain the senior citizen and any violation would be sufficient for the purpose of invoking [Section 23\(1\)](#) of the Act, to cancel the Gift or Settlement Deed executed by the senior citizen.

.....

.....

41. The entire purpose and object of the [Senior Citizens Act](#), is to consider the human conduct towards them. When the human conduct is indifferent towards senior citizen and their security and dignity are not protected, then the provisions of the Act, is to be pressed into service to safeguard the security and dignity of senior citizen. Therefore, the purposive interpretation of the provisions are of paramount importance and [Section 23](#) of the Act, cannot be mis-utilised for the purpose of rejecting the complaint filed by the senior citizen on the ground that there is no express condition for maintaining the senior citizen. Even in the absence of any express condition in the document, “Love and Affection” being the consideration for execution of Gift or Settlement Deed, such love and affection becomes a deeming consideration and any violation is a ground to invoke [Section 23\(1\)](#) of the Act. Thus there is no infirmity in respect of the order passed by the second respondent in the present case.”

42. In the case of **Radhamani and Others vs. State of Kerala**⁷, the learned

7 2015 SCC OnLine Ker 33530



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*Single Judge of the Kerala High Court considered Section 122 of Transfer of Property Act, 1882. In paragraph No.11 of the judgment, it is observed that, “Section 23 of the Senior Citizens Act, 2007 does not contemplate that the condition should form part as recital in the deed of transfer. It only refers that there should be a condition for such transfer. **This condition can be either express or implied.** If there is no express recital in the deed, the Tribunal has to look around circumstances to find out whether conduct otherwise dispel the intention of donor to revoke. The consideration for executing a gift deed or settlement deed is based on human conduct, caring and conscientious. Transfer admittedly is out of love and affection. Any donor in a gift deed would expect in a natural course of human conduct that donee continues to behave in same manner as behaved before execution of the deed. The love and affection influenced for execution of the deed certainly must be enduring and without any barrier.” It is further stated that,*

“

11. It is to be noted that the special scheme in terms of Senior Citizens Act, 2007 could declare certain transfer as void, taking note of the fact that by taking advantage of the emotionally dependent senior citizens, relatives grab the property on the pretext of providing emotional support. Therefore, legislature thought such transaction could be declared as void as the conduct leading to



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transaction was based on malice or fraud. Therefore, condition referred in Section 23 has to be understood based on the conduct of the transferee and not with reference to the specific stipulation in the deed of transfer. Thus, this Court is of the view that it is not necessary that there should be a specific recital or stipulation as a condition in the transfer of deed itself. This condition mentioned in Section 23 is only referable as a conduct of the transferee, prior to and after execution of the deed of transfer. Thus, challenge based on the ground that there is no reference in the recital of deed that transferee will provide basic amenities and physical needs to the transferor is of no consequence.”

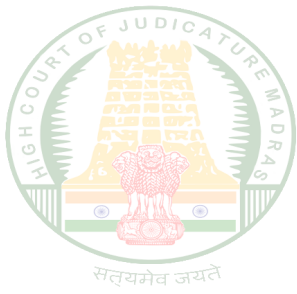
43. In the case of **Subhashini vs. District Collector and Others**⁸, the legal proposition laid down by the learned Single Judge in the **Radhamni's case** cited *supra* has been approved by the Division Bench of the Kerala High Court.

44. In the case of **Palanimuthu vs. The Principal Officer, Maintenance Tribunal/Revenue Divisional Officer, Namakkal and Others**⁹, the learned Single Judge of this Court (SMSJ), considered the very same issues.

45. The Hon'ble Supreme Court of

⁸ 2020 SCC Online Ker 4080

⁹ MANU/TN/2011/2024



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*India in the recent case of **Urmila Dixit** cited supra interpreted Section 23(1) of the Act to hold that express condition in the deed may not be required and non-maintenance of a senior citizen per se would result in invoking the implied condition for which such gift or settlement deed has been executed by the senior citizen out of love and affection, which is relatable to human conduct. Thus, all other judgments of the High Courts running counter to the principles laid down by the Hon'ble Supreme Court in **Urmila Dixit's** case denuded to lose its status as precedent."*

8. In view of the facts and circumstances, the writ order impugned in WP.No. 4818 of 2022 dated 14.02.2023 is set aside. However, the parties are at liberty to approach the Civil Court of law in respect of the settlement deeds executed in favour of the grandchildren in the manner known to law.

9. Accordingly, the Writ Appeal stands allowed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

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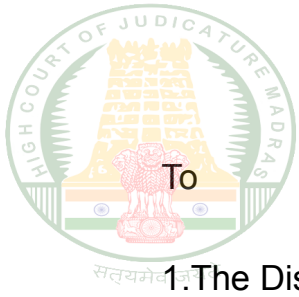
Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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To

1.The District Collector
Tiruppur District.

2.THE EXECUTIVE MAGISTRATE
And Revenue Divisional officer,
Tiruppur District.

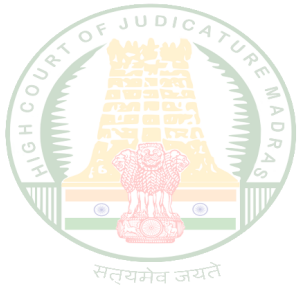
3.The Sub Registrar
Sathiyamangalam, Erode District.

4.The Sub Registrar
Uthukuli, Tiruppur District.

5.Minor.D.Soundarya
Rep by her Natural Guardian, Mother
D.Kavitha, Old No. 57/ New No. 81,
East Chariot Road, Uthukuli Town,
Tiruppur District.

6.Minor. U.D.Thiru.Vishnuvardhan
(minor)
Rep by his Natural Guardian, Mother
D.Kavitha, Old No. 57/ New No. 81,
East Chariot Road, Uthukuli Town,
Tiruppur District.

7.D.Kavitha
W/o.Late Durairaj, Old No.57 / New
No.81, East Chariot Road, Uthukuli
Town, Tiruppur District.



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**S.M.SUBRAMANIAM J.
AND
MOHAMMED SHAFFIQ J.**

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