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W.P.No.26552 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.26552 of 2022

and

W.M.P.Nos.25609 and 25610 of 2022

S.Meenatchi

... Petitioner

Vs.

1.The District Collector,
Tiruppur,
Tiruppur District.

2.The Revenue Divisional Officer
-cum-First Class Executive Magistrate,
Tiruppur,
Tiruppur District.

3.Mrs.Vijaya

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for records in Na.Ka.3450/2022/E3 dated 17.08.2022 on the file of 2nd respondent and quash the same.



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For Petitioner : Mr.G.Rajarajan

For Respondents 1&2 : Mr.R.V.Dinesh Rajkumar
Additional Government Pleader

For Respondent-3 : Mr.K.Sudhakar

ORDER

The writ petition seeks to quash the order passed by the 2nd respondent in Na.Ka.3450/2022/E3 dated 17.08.2022.

2. The facts which have given rise to the above writ petition are herein below set out.

(i) The petitioner is the daughter of the 3rd respondent herein. It is her contention that the property measuring an extent of 6.56 acres comprised in Old Survey No.707, Resurvey No.199/3, situated at Nizhali Village was purchased by the 3rd respondent under a registered Sale Deed dated 11.10.1993. The 3rd respondent was married to one Thangavel and out of this wedlock, she had two children, the petitioner herein and a son, Saravanan. In a family arrangement, the son was given valuable

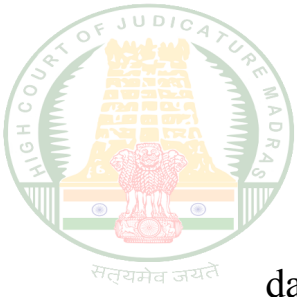


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properties and he earns a monthly rent of Rs.1,50,000/- from out of these properties. The petitioner would submit that when the relationship between the 3rd respondent and her son had become strained it was she who was taking care of her mother. Between the years 2008 to 2018, it was the petitioner who was supporting and maintaining her mother by providing medical and maintenance including shelter. The son had, for all practical purposes, abandoned the 3rd respondent.

(ii) In consideration of being taken care of by the petitioner and as her son had abandoned her, the 3rd respondent had executed a registered Settlement Deed dated 22.05.2015 out of love and affection and the same was registered as Document No.2303 of 2015 on the file of the Sub Registrar Office, Kangeyam. The petitioner would submit that the 3rd respondent is literate and only after reading the contents of the Settlement Deed, she had voluntarily and in a sound and disposing state of mind executed the Settlement Deed. The petitioner would submit that from the

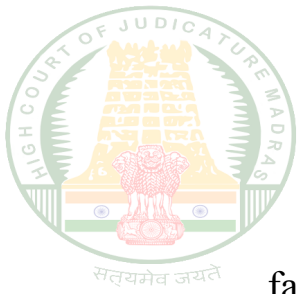


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date of the settlement she has been in continuous possession and enjoyment of the property.

(iii) Aggrieved by the fact that the 3rd respondent had settled the property on the petitioner, the petitioner's brother, Saravanan induced her mother to file a suit O.S.No.248 of 2019 on the file of the District Munsif Court, Kangeyam seeking the relief of declaring the Settlement deed dated 22.05.2015 as null and void. The suit was hopelessly barred by limitation. After coming to know that the chance of succeeding in the suit was remote, Saravanan had induced the 3rd respondent to file an application to set aside the Settlement Deed by invoking the provisions of Maintenance and Welfare of the Parents and Senior Citizen Act, 2007 on the very same grounds raised in the suit. The petitioner on entering appearance before the authority had stated that the application was itself not maintainable since there were no conditions stipulating maintenance as a condition for executing the settlement deed. Without taking into consideration this legal



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factor, the 2nd respondent has proceeded to allow the application.

Aggrieved by the same, the petitioner is before this Court.

3. The counter of the 2nd respondent merely extracts the facts and provisions. The 2nd respondent would state that since the petitioner has not maintained the 3rd respondent as per her assurance and got the property settled in her favour, the petitioner was not entitled to invoke the jurisdiction of the Court.

4. The 3rd respondent, on the contrary, would submit that the petitioner should pay maintenance to her. However, there is no claim for maintenance. Even in her counter affidavit, she has only stated that she had come to know about the alleged fraud and immediately filed the suit. Therefore, neither in her petition nor in the counter before this Court has the petitioner stated that the settlement deed had been executed with the condition that the petitioner should take care of the basic needs and amenities to the petitioner or pay her maintenance.



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5. Heard the learned counsels on either side and perused the materials available on record.

6. From a perusal of the typed set of papers, it is seen that the 3rd respondent had filed a suit O.S.No.248 of 2018 seeking to declare the Settlement Deed dated 22.05.2015 bearing No.2303 of 2015 standing in the name of the petitioner herein as null and void. The 3rd respondent would contend that she had some difference of opinion with her son, Saravanan and was living separately at which point in time the petitioner offered her emotional support. It is her contention that the petitioner had insisted upon the 3rd respondent executing a Will in her favour with reference to the suit property. Though the 3rd respondent was not inclined to execute the same, the petitioner herein had requested her to execute the same on condition that the 3rd respondent can cancel the Will at her whims and fancies. Believing the words of the petitioner and her husband, the 3rd



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respondent had executed a Will and it was only when she had compromised with her son and thereafter had applied for encumbrance certificate that she came to know about the fraud that had been committed by her daughter in getting a Settlement Deed executed instead of a Will. Therefore, since the said settlement deed had been executed fraudulently, the suit had been filed.

7. A written statement was filed by the petitioner herein in the suit denying the averments and contending that the suit was barred by limitation and that apart, the same had already been acted upon. Therefore, the suit should be dismissed.

8. Section 23 of The Maintenance And Welfare of Parents And Senior Citizens Act, 2007 reads as follows:

“23. Transfer of property to be void in certain circumstances. ?

1.Where any senior citizen who, after the



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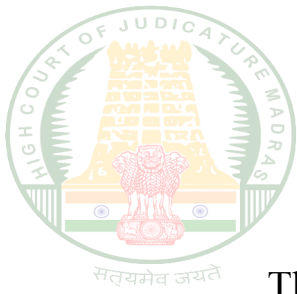


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commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide 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 and shall at the option of the transferor be declared void by the Tribunal.

2. Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

3. If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.”



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The above section would indicate that the provisions of this Act can be invoked, where a senior citizen, after the commencement of the Act, has transferred the property by way of gift or otherwise to a transferee on the condition that transferee should provide the basic amenities and physical needs to the transferor and if the transferee fails to do so, it would be deemed that the transfer has been made by fraud, coercion or undue influence. Therefore, in order to invoke the provisions of Section 23, the petitioner has to satisfy the following conditions:

- a) That the settlement deed has been executed with the condition that the transferee would take care of the transferor's basic amenities and facilities;*
- b) That this condition has been flouted; and*
- c) That the execution is deemed to have been made by fraud and undue influence.*

As already stated, the contention of the 3rd respondent in the suit was that she had gone to the Registrar's Office to execute a Will



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but fraudulently a Settlement Deed was executed instead.

Therefore, it is not her contention that she had executed a settlement deed with the condition that the petitioner should take care of her basic amenities and physical needs. Therefore, the very ground on which the application has been filed appears to be without jurisdiction. The Hon'ble Supreme court in the Case of **[2022] 17SCR876 Sudesh Chhikara vs. Ramti Devi and Ors.** has considered the provisions of Section 23 of the Act and observed as follows:

“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 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



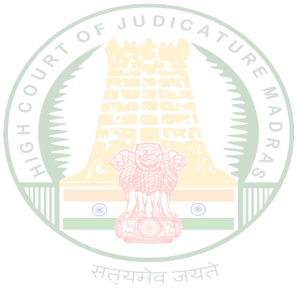
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14. Careful perusal of the petition Under Section 23 filed by Respondent No. 1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of Respondent No. 1) would provide the basic amenities and basic physical needs to Respondent No. 1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the impugned judgment of the Tribunal, immediately after a reply was filed by the Appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor - senior citizen is sine qua non for applicability of Sub-section (1) of Section 23. In the present case, as stated earlier, it is not even pleaded by Respondent No. 1 that the release deed was



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executed subject to such a condition.”

In the application filed before the 2nd respondent, there is no such plea that there has been a violation of any condition under which the settlement deed has been executed. On the contrary, the case pleaded is one of fraud and misrepresentation. Therefore, the impugned order cannot be sustained and is accordingly set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

9. Learned counsel for the petitioner, on instructions, would further submit that the petitioner is willing to pay a sum of Rs.5,000/- per month to the 3rd respondent if the respondent is ready to receive it. The said statement is recorded.

29.08.2025

srn



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