



WEB COPY

WP No. 13491 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 13491 of 2024

AND

WMP NO. 14659 OF 2024, WMP NO. 14660 OF 2024, WMP NO. 14661 OF 2024

Udhayakumar,
S/o. Late. Sundaresan, No. 154/1, Vettuvanathanpatti
Village, Eripattarai, Erithangal Post, Guiyatham
Taluk, Vellore District.

..Petitioner(s)

Vs

1. The District Collector,
Vellore District, Vellore.
2. The Revenue Divisional Officer,
Gudiyatham, Vellore District.
3. Sampath,
S/o. Late. Sundaresan, Vettuvanathanpatti
Village, Eripattarai, Erthangal Post,
Guidiyatham Taluk, Vellore District.
4. Kumaravel,
S/o. Late. Sundaresan, Vettuvanathanpatti
Village, Eripattarai, Erthangal Post,
Guidiyatham Taluk, Vellore District.
5. Amsa,
D/o. Late. Sundaresan, Vettuvanathanpatti
Village, Eripattarai, Erthangal Post,
Guidiyatham Taluk, Vellore District.



6. Ganapathy,
S/o. Late. Sundaresan, Vettuvanathanpatti
Village, Eripattarai, Erthangal Post,
Guidyatham Taluk, Vellore District.

..Respondent(s)

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari call for the Records pertaining to the proceedings of the 2nd Respondent in Pa.Mu.(A2)1209/2022 dated 24.11.2022 and to quash the same as illegal, incompetent and ultravires.

For Petitioner(s): Mr.R.Jayaprakash

For Respondent(s): Ms.S.Anitha, Spl.GP. for R.1 and R.2

Mr.G.Vinodh Kumar, for R.3, 4 and 6

No appearance for R.5

ORDER

Challenging the order passed by the 2nd respondent in his proceedings dated 24.11.2022, the petitioner is before this Court.

2. The brief facts of the case are as follows:-

2.1. The respondents 3 to 7 are the siblings of the petitioner. After the death of his father in the year 2001, the land situate at Erthangal Village



comprised in S.No.666/3A and 666/3B, measuring an extent of 0 Hec 40.5 Ares was allotted to the share of the petitioner's mother by way of partition.

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2.2. The petitioner's mother was living permanently with the petitioner for more than 22 years. Out of love and affection, the petitioner's mother had executed a Settlement Deed dated 18.02.2013 registered as Doc.No.1480 of 2013, on the file of the SRO, Gudiyatham in respect of the above said properties. The said Settlement Deed is a clean and absolute Settlement Deed without any conditions.

2.3. While so, respondents 3, 4 and 6 taking advantage of the petitioner's mother's old age and medical condition, compelled her to lodge a complaint against the petitioner before the 1st respondent on 14.03.2022. Further, on 06.07.2022, they forced her to lodge a complaint with the 2nd respondent with false and motivated allegations for cancelling the settlement deed dated 18.02.2013.

2.4. Thereafter, the petitioner had appeared in the enquiry conducted by the 2nd respondent and filed a detailed counter. However, without properly considering the facts and circumstances of the case and without considering the



documentary evidence produced by the petitioner, the 2nd respondent had passed the impugned order on 24.11.2022 cancelling the Settlement Deed dated 18.02.2013. Challenging the same, the petitioner is before this Court.

3. Heard the learned counsel on either side and perused the records.

4. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (hereinafter referred to as 'Act' for brevity) provides the circumstances, under which, a transfer of property would become void. Section 23(1) would read as follows:-

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

1. 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.

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. “

5. The Hon'ble Supreme Court in the case of ***Sudesh Chhikara Vs., Ramti Devi*** and another reported in ***2022 SCC Online SC 1684***, after considering the scope of Section 23 of the Act, had observed as follows:-

“12. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression “by way of gift or otherwise”. For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled:

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.

If both the aforesaid conditions are satisfied, by a legal fiction, the transfer shall be deemed to have been made by fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of the transferor and the Maintenance Tribunal gets jurisdiction to declare the transfer as void.....



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 executed subject to such a condition.”

6. Relying upon the above judgement, the Hon’ble Supreme Court in the case of **Urmila Dixit Vs.Sunil Sharan Dixit and others** reported in **2025 SCC Online SC 2**, had held as follows:-

“.....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.....”

7. In view of the above-referred legal pronouncements and also taking note of the fact that the Settlement Deed dated 18.02.2013 does not contain any conditions so as to attract the provisions of the Act, the order passed by the 2nd respondent dated 24.11.2022 cannot be sustained and is liable to be set aside.

8. Accordingly, the Writ Petition is allowed and the impugned order passed by the 2nd respondent dated 24.11.2022 is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

15-12-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SHR



To

1. The District Collector,
Vellore District, Vellore.
2. The Revenue Divisional Officer,
Gudiyatham, Vellore District.



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P.T.ASHA J.

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