



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-03-2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WA No. 3533 of 2024

AND

CMP NO. 27377 OF 2024

Mohammed Rizwan

Appellant(s)

Vs

1.The District Collector,
Coimbatore
District Collectorate Building,
State Bank Road, Coimbatore- 641 018.

2.The First Class Magistrate Cum
Sub Collector
O/o, Sub Collector, Pollachi Division,
Pollachi, Coimbatore-642001.

3.Sherfunisa Begum

4.The Sub Registrar (Pollachi)
No.104, Taluk Office Campus,
Pollachi, Coimbatore- 642 001.

Respondent(s)



WEB COPY

To set aside the order dated 04.10.2024 made in WPNo.29948/2024

For Appellant(s): Mr.R. Nandha Kumar

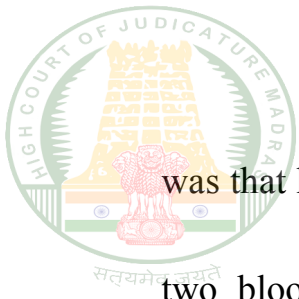
For Respondent(s): Mr.A.Selvendran SGP For R1,
R2 & R4
Mr.V.Anandhamoorthy For R3

JUDGMENT

(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the order dated 04.10.2024 passed in W.P.No.29948 of 2024.

2. The case arises under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [hereinafter referred to as 'Senior Citizens Act']. The 3rd respondent, a senior citizen and grandmother of the appellant. The appellant has two sisters being maintained by the 3rd respondent / senior citizen. Since the daughter of the senior citizen died more specifically after the death of the daughter of the senior citizen has granted protection to three grandchildren, including the appellant. The allegation against the appellant by the senior citizen



was that he promised that he will maintain the 3rd respondent as well as his own two blood sisters. Believing the words of the appellant, the senior citizen executed settlement deed in favour of the appellant.

3. However, after execution of the settlement deed, the appellant neglected the senior citizen and his sisters. Under those circumstances, a complaint was filed by the 3rd respondent before the Tribunal under the Senior Citizens Act. Initially, the Sub Collector, Pollachi conducted an inquiry and passed an order dated 15.03.2024, rejecting the complaint with a liberty to approach the Competent Civil Court of Law.

4. The senior citizen preferred an appeal before the District Collector, who conducted an independent inquiry and recorded evidence. The senior citizen appeared before the District Collector and testified that the appellant had fraudulently obtained the settlement deed by promising to take care of the senior citizen and his sisters. After the death the daughter of the senior citizen, she is protecting the livelihood of the three grandchildren, including the appellant.



WEB COPY

That being so, the appellant had behaved independently after execution of the settlement deed by the third respondent. The District Collector elaborately considered the statement given by the senior citizen and also the defence statement of the appellant annulled the settlement deed under the provisions of the Senior Citizens Act.

5. The appellant challenged the order of the District Collector through writ petition. The learned the Single Judge also appreciated the facts recorded by the District Collector based on the evidence and relying on the judgment of the Hon'ble Supreme Court of India in the case of ***Sudesh Chhikara vs. Ramti Devi and Another***¹, dismissed the writ petition. Thus, the present writ appeal came to be instituted.

6. The learned counsel for the appellant would mainly contend that the property belonged to the grandfather of the appellant and settlement deed was executed in favour of the other legal heirs as well. Therefore, it is not the only settlement deed executed in favour of the appellant. Thus, the complaint under

1. 2022 SCC Online SC 1684



the Senior Citizens Act is not maintainable. Further, it is contended that the appellant is ready and willing to maintain the senior citizen and his two sisters.

7. The learned counsel for the 3rd respondent would oppose by stating that the senior citizen and the two sisters of the appellant were neglected. Three grandchildren of the senior citizen were taken care of all along and the appellant by taking undue advantage of the senior citizen's vulnerability and obtained settlement deed and subsequently neglecting the senior citizen and his two sisters. The District Collector considered the senior citizen's and grandchildren's plight and declared the settlement deed null and void. Thus, there is no infirmity.

8. This Court is of the considered opinion that the senior citizen, having protected the livelihood of her deceased daughter's three children, had no reason to execute settlement deed solely in favour of the appellant. The execution of the settlement deed in favour of the grandson raises suspicion about the appellant's false promises to the senior citizen.



WEB COPY

9. Thus, the factual inference is to be drawn that senior citizen is taking care of three grandchildren, but executed settlement deed only in favour of the grandson with a fond hope that the grandson will take care of her and his two sisters. When the appellant failed to maintain, the complaint came to be filed.

10. The Revenue Divisional Officer (RDO) has not appreciated the facts but proceeded merely based on the fact that the settlement deed was executed in view of family arrangements made on 28.09.2021. However, perusal of the documents would reveal that the family arrangements took place prior to execution of the settlement deed in favour of the appellant i.e., on 08.10.2021. Therefore, the family arrangement is unrelated to the settlement deed executed in favour of the appellant on the promise that he will take care of his grandmother and his two sisters. Therefore, the family arrangement made within the family is unconnected with the settlement deed exclusively executed in favour of the appellant by the senior citizen. It is visibly clear that after family arrangement, the settlement deed was executed exclusively in favour of the



appellant by the senior citizen. That being so, the statement of the senior citizen cannot be said to be unreliable. Consequently, the neglect is established.

11. The District Collector independently considered the evidence. Before the District Collector the senior citizen appeared in person and submitted her statements made before the RDO. The District Collector considered the statement in the context of the Senior Citizens Act and declared the settlement deed null and void. The settlement deed dated 08.10.2021 reveals that the 3rd respondent senior citizen executed the settlement deed out of love and affection and for the better future of the appellant. This submission in the settlement deed is sufficient to comply with Section 23(1) of the Senior Citizens Act, which does not require explicit conditions.

12. The facts and circumstances, including the oral statement of the senior citizen indicate that she executed the settlement deed with a fond hope that her two grandchildren will be taken care of by the appellant. The failure of the appellant led to the complaint. Thus, the conditions stipulated under the Act has



been satisfied and this Court do not find any infirmity in respect of the order passed by the District Collector annulling the settlement deed by the District Collector.

13. The legal principles regarding the compliance of implied conditions under Section 23(1) of the Senior Citizens Act has been elaborately considered by this Court in the case of *S.Mala vs. District Arbitrator and District Collector, Nagapattinam District*². Additionally, in another judgment also, this Court has further deliberated on the legal principles (W.A.No.3178 of 2024 dated 01.04.2025). The legal principles considered are as under:

(A) Indian Constitution and Senior Citizens Act:

14. The essence of law is to serve and secure social solidarity, ensuring that individuals fulfil 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

2. 2025 MHC 706



WEB COPY

15. 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.

16. 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

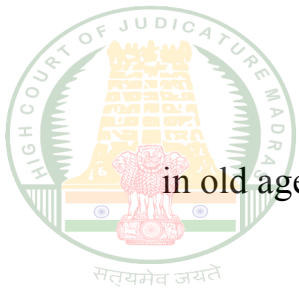


comprehensive framework for ensuring the well-being of senior citizens of our great nation.

17. 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 protection³”*

18. 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 meaning of a dignified life

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



in old age depends on the legitimate needs of senior citizens.

WEB COPY

19. The Supreme Court, in ***F.Francis Coralie Mullin vs. Administrator, Union Territory of Delhi***⁴, 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.”

4. A.I.R. 1981 746.



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

21. 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



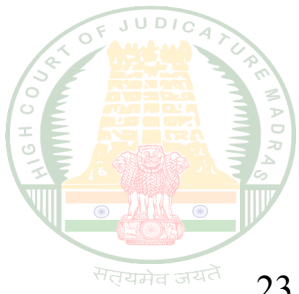
WEB COPY

WA No. 3533 of 2024



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 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.”

22. 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.



WEB COPY

23. 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,
- (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.

24. 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.

WEB COPY

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

26. **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.

27. **Section 4 of the Senior Citizens Act stipulates “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*

WEB COPY

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

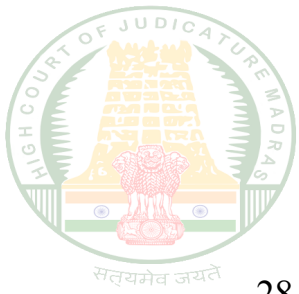
*(ii) a childless senior citizen, against such of his
relative referred to in clause (g) of section 2.*

*(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.'*



WEB COPY

28. The scope of ‘maintenance’ includes 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.**

29. 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*⁵ Supreme Court

5. (2019) 2 SCC 636

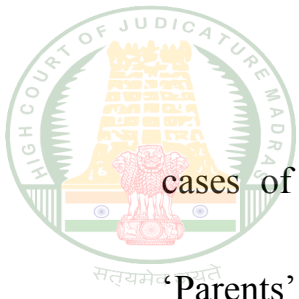


WEB COPY

opines:

“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.”

30. **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



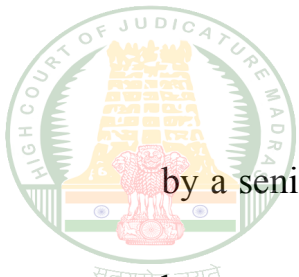
cases of application for maintenance before the Tribunal under **Section 4**.

‘Parents’ and ‘senior 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.**

31. 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 vs. Presiding officer Cum SDM*]⁶. 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.

32. Application for maintenance mentioned under **Section 4** may be filed

6. 2015 SCC OnLine P&H 260



WEB COPY

by a senior citizen or a 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:

33. The preamble as well as the statement of objects and reasons clearly shows that the intention of the Parliament in enacting the law and the purpose of the law has to be gathered in interpretative process. Section 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.

34. 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.

35. Many a times, senior citizens either to fulfil 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 of the former if they are ill-



WEB COPY

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 influence⁷.

36. In the case of *Promil Tomar and Ors vs. State of Haryana and Ors*⁸ 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 objectives of the Act, “transfer” would mean that transfer of property by senior citizen

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

8. 2013 SCC OnLine P&H 26819



WEB COPY

WA No. 3533 of 2024



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.”

37. 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.**



WEB COPY

38. In *Smt. Sunita Bhasin v. State of NCT of Delhi*⁹, 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.

39. 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 .

40. **Section 122 of the Transfer of Property Act, 1882** (hereinafter referred to as “TP Act”) defines a gift as any transfer of certain existing movable

9. W.P.(C).No.13139 of 2018



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.

41. 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 not because it has an overriding effect over the other laws

for the time being in force but, based on the legal maxim “**Generalia**

Specialibus non derogant”, i.e., special enactment (the Act) prevails over



the general enactment (TP Act – a general law relating to transfer of property).

WEB COPY

42. Thus, while construing the provisions of Section 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 Section 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 misrepresentation.

43. 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**



WEB COPY

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 Section 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.

44. It is not provided in explicit and clear terms in Section 23 as to whether the transferee against whom the relief under Section 23 is sought for by the transferor senior citizen should necessarily be confined to transferees, who are relatives or children of the senior citizen/parent. Section 2(g) of the abovesaid Act defines a “relative” and Section 2(a) thereof defines the term, “children” to include son, daughter, grandson and grand-daughter but does not include a minor.

45. The definitions' clause as per Section 2 of the Maintenance and



WEB COPY

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.

46. 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 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*



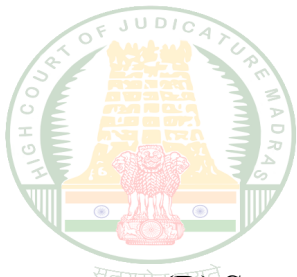
sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language.”

WEB COPY

47. As held by the Apex Court in the judgement in ***Shailesh Dhairyaman v. Mohan Balakrishna Lulla***¹⁰, 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 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.**

48. 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.

10. (2016) 3 SCC 619



(D) Summary Procedure for Speedy Relief:

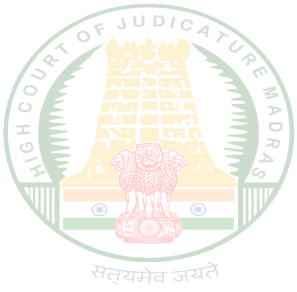
WEB COPY

49. 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.

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

51. 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.

WEB COPY

(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.

52. The summary nature of proceedings under Section 8 aligns with the spirit of the Act, which is to provide swift and effective justice to senior citizens facing neglect, harassment, or financial exploitation.

53. 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.

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

55. The relevant portion of the judgment of this Court in the case of ***S.Mala vs. The District Arbitrator*** cited *supra* 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, Bengaluru Urban District and Others*¹⁰, elaborately considered the legislative scheme, rights of residence, safeguarding against domestic violence etc. In Paragraph No.24 of the

10. 2021 15 SCC 730



WEB COPY



*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 Others**¹¹ 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***

11. MANU/SC/1581/2022

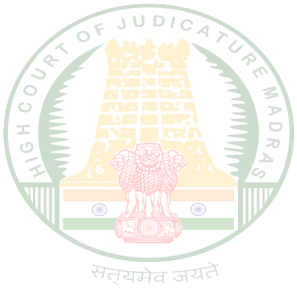


WEB COPY



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 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



WEB COPY



made in the document, it must be established.

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



WEB COPY



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



WEB COPY



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 Others¹²**, the

12. MANU/TN/5114/2023



WEB COPY



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



WEB COPY

WA No. 3533 of 2024



“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, 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.

.....

.....

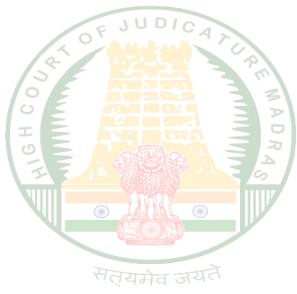
38. The Kerala High Court observed in the case of Radhamani and Others (cited supra), Section 23(1) of the Senior Citizen Act, cannot be interpreted to the disadvantage of the senior citizen. [Section 23\(1\)](#) of the Act contemplates that “Where any senior citizen who, after the commencement of this 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



WEB COPY



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 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



WEB COPY

WA No. 3533 of 2024

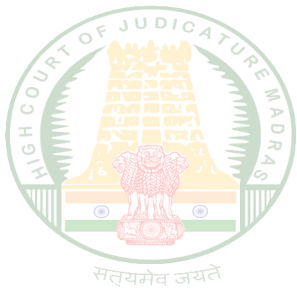


or Settlement Deed executed by the senior citizen.

.....

.....

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



WEB COPY



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**¹³, the learned 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

13. 2015 SCC OnLine Ker 33530



WEB COPY



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 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.



WEB COPY



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**¹⁴, 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**¹⁵, the learned Single Judge of this Court (SMSJ), considered the very same issues.

14. 2020 SCC Online Ker 4080

15. MANU/TN/2011/2024

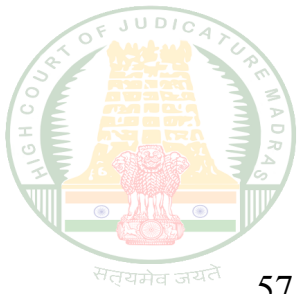


WEB COPY



45. *The Hon'ble Supreme Court of 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.”*

56. The facts in the present case reveal that the senior citizen executed the settlement deed due to love and affection and for the better future of her grandson. However, after executing the settlement deed, the conduct of the grandson was indifferent towards the senior citizen. The term expressly stated that the settlement deed has been executed out of love and affection and for the better future of the appellant, would be sufficient to satisfy the condition stipulated under Sections 23(1) of the Senior Citizens Act.



WEB COPY

57. In this context, it is unnecessary to explicitly state that the children/relatives undertake to maintain the senior citizen. It is sufficient that the property has been settled out of love and affection, which serves as the consideration for executing the settlement or gift deed.

58. Thus, the condition expressly stated in the settlement deed is the consideration and an implied condition to satisfy the requirement under Section 23(1) of the Senior Citizens Act. Therefore, this Court do not find any infirmity in respect of the findings made by the Writ Court, which is in consonance with the provisions of the Senior Citizens Act.

59. Recently, the statistics taken by various organizations are alarming. Across many states in the country, the senior citizens are neglected and after sacrificing their life for the benefit of the family at their old age they are in lurch. Many senior citizens are now staying in old age homes or in Government homes, if they are poor, and even old aged persons having money is unable to



maintain themselves, on account of vulnerable situation prevailing in the society. The senior citizen in the present day society is a target by the criminals and therefore, protecting the senior citizen is the duty mandated on the State under the Constitution of India.

60. The requirement of the provisions are to be complied in its real spirit, and in the event of any doubt, the Authority Competent is empowered to cancel the Settlement Deed or Gift Deed, as the case may be, in order to protect the normal life of senior citizen.

61. The possibility of maintaining the senior citizen in the context of strained relationship is to be looked into. Therefore, mere statements or affidavits filed before the Courts stating that the son or daughter will maintain the senior citizen are insufficient. Courts in application of its mind, has to consider the practicality of the issues as a whole for the purpose of declaring the document as null and void.



62. Striking a balance require that the life and dignity of the senior citizen is protected. That being so, the best option for the authorities and the Courts is to annul the settlement or gift deed rather than believing such statements made after arising of the disputes and when the parties are in strained relationship.

63. Therefore, the approach of the Writ Court is balanced and in consonance with the legislative intent and spirit of the Act. Since the right to life and dignity is a fundamental constitutional right, Courts cannot adopt a midway path, which may result in miscarriage of justice.

64. The discussions in the aforementioned paragraphs would be sufficient for the purpose of arriving an irresistible conclusion that the relief granted by the Writ Court in favour of the senior citizen is in consonance with the constitutional principles and in accordance with the provisions of the Senior Citizens Act.

65. Furthermore, Section 32 of the Senior Citizens Act empowers the



State Government to make rules. Accordingly, the State, in exercise of its powers, notified the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Rules, 2009. Chapter V Rule 20 stipulates duties and powers of the District Collector. Rule 20(2)(i) states 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.**

66. In view of the discussions made, this Court has arrived at an irresistible conclusion that the appellant has not made out any acceptable ground for the purpose of assailing the writ order impugned. Consequently, the order dated 04.10.2024 passed in W.P.No.29948 of 2024 stands confirmed and thus, the Writ Appeal is dismissed. The Connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

19-03-2025

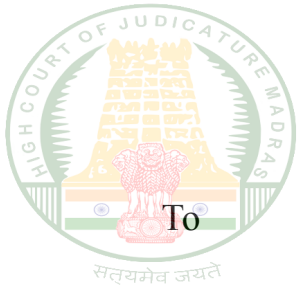
Jeni

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



WA No. 3533 of 2024



WEB COPY

1. The District Collector

Coimbatore

District Collectorate Building, State
Bank Road, Coimbatore- 641 018.

2. The First Class Magistrate Cum Sub
Collector

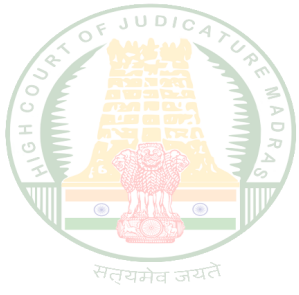
O/o, Sub Collector, Pollachi Division,
Pollachi Coimbatore-642001.

3. Sherfunisa Begum

W/o. Late Dhadha Khan 7, Abirami
Andal Layout, Kumaran Nagar,
Pollachi

4. The Sub Registrar (Pollachi)

No.104, Taluk Office Campus, Pollachi,
Coimbatore- 642 001.



WEB COPY

WA No. 3533 of 2024



**S.M.SUBRAMANIAM
J.
AND
K.RAJASEKAR J.**

Jeni

WA No. 3533 of 2024

19-03-2025