



W.A.(MD)No.267 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.267 of 2025
and
C.M.P.(MD)Nos.1897, 1898 and 7100 of 2025**

M.K.Adkithadevi

... Appellant

Vs.

1.The District Collector,
Kanyakumari District.

2.The Sub Collector,
Padmanabapuram,
Kanyakumari District.

3.The Sub Registrar,
Thuckalay,
Kanyakumari District.

4. Muthu Nadar

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.26670 of 2024 dated 17.12.2024 on the file of this Court.



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For Appellant : Mr.Antony R.Julian

For Respondents : Mr.A.Kannan,
Addl. Government Pleader for R1 to R3.
Mr.T.Wins for R4.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The appellant / Akithadevi is the daughter of the fourth respondent / Muthu Nadar. Muthu Nadar executed a settlement deed dated 03.07.2000 settling the petition mentioned house property in her favour. The settlement deed contained a stipulation that Muthu Nadar and his wife can reside in the settled property during their life time. While so, Muthu Nadar filed petition under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before Maintenance Tribunal for cancelling the settlement deed. The Maintenance Tribunal vide order dated 14.10.2022 declined to cancel the settlement deed instead it only passed restraint order against the settlee (appellant herein). Aggrieved by the order of Maintenance Tribunal, Muthu Nadar filed an appeal before the District Collector, Kanyakumari District. The District Collector vide communication dated 15.05.2023 addressed to the



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Superintendent of Police, Kanyakumari called upon the Superintendent of Police, Kanyakumari to ensure that Akithadevi does not in any way interfere with the residential rights of Muthu Nadar (Settlor). In the same communication, Muthu Nadar was also informed that he has to move the registering authority to get the deed cancelled. He added that the appeal itself is not maintainable. While the matter stood thus, Muthu Nadar once again moved the appellate authority by filing an appeal petition on 25.09.2024. The District Collector, Kanyakumari / appellate authority vide proceedings dated 23.10.2024 set aside the order of the Maintenance Tribunal and cancelled the settlement deed dated 03.07.2000 executed in favour of the appellant herein. Challenging the same, the appellant herein filed W.P.(MD)No.26670 of 2024. The learned Single Judge applying the decision of the Hon'ble Supreme Court reported in 2022 SCC OnLine SC 1684 (Sudesh Chhikara Vs. Ramti Devi) dismissed the writ petition on 17.12.2024. Aggrieved by the same, this writ appeal has been filed.

2.We heard the learned counsel on either side.



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3. Even though the communication dated 15.05.2023 has been addressed by the District Collector only to the Superintendent of Police, in effect, the District Collector had already taken a stand that the appeal preferred by Muthu Nadar against the order dated 14.10.2022 passed by the Maintenance Tribunal is not maintainable. This according to us is clearly a wrong understanding of law. But the fact remains that the appellant authority had already disposed of the appeal filed by the fourth respondent herein. Thus, the appellate authority has already become *functus officio*. He could not have reviewed his / her own order in the absence of any specific provision in the statute.

4. Therefore, the appellate authority grievously erred in once again entertaining the appeal petition from the fourth respondent. The order dated 23.10.2024 passed by the appellate authority is patently without jurisdiction. This aspect of the matter was not taken note of by the learned Single Judge. We, therefore, set aside the order of the learned Single Judge. We also set aside the order dated 23.10.2024 impugned in the writ petition. But then, we cannot lose sight of the rights of the senior citizen. When Section 16 of the Maintenance and Welfare of



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Parents and Senior Citizens Act, 2007 explicitly permits the senior citizen to file an appeal against any order of the Maintenance Tribunal, the appellate authority needlessly constricted the scope of Section 16 in the first instance. We, therefore, set aside the communication dated 15.05.2023 issued by the District Collector, Kanyakumari. The appeal proceedings shall stand revived. The District Collector, Kanyakumari / appellate authority shall issue notices to both the parties and dispose of the appeal on merits and in accordance with law as expeditiously as possible.

5.This writ appeal is allowed accordingly. No costs.
Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (K.R.S. J.)
18.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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and
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