



W.P.(MD) No. 22515 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 22515 of 2025

and

W.M.P.(MD) Nos.17625 & 17626 of 2025

Joseph Veerasingh

... Petitioner

Vs

1. The District Collector-Cum-Maintenance and Welfare
of Parents and Senior Citizens Appellate
Tribunal of Kanyakumari District,
At Nagercoil,
Kanyakumari District.

2. The Sub Collector - Cum Maintenance and Welfare of
Parents and Senior Citizens Appellate
Tribunal of Padmanabhapuram,
At Thuckalay,
Kanyakumari District.

3. The Sub-Registrar of Verkilambi,
Verkilambi Post,
Kanyakumari District.

4. Eassack

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of Writ of Certiorari to call for the records of the first respondent, pertaining to his order in Moo.Mu.C3/3368886/2025 dated 02.07.2025 on his file, quash the same, insofar as the properties of 8 cents in present survey No.581/4A of Cherukol Village, Thiruvattar Taluk, Kanyakumari District, 47 cents in the said present survey No.581/4A of the said Cherukol Village, and 20.455 cents in Survey No.89/9 of Veeyyannoor B Village, Thiruvattar Taluk, Kanyakumari District, transferred to the petitioner by the fourth respondent by registered settlement deed No.2575 of 2020 dated 19.10.2020 on the file of the Sub Registrar of Verkilambi are concerned, granting such further and other reliefs.

For petitioner : Mr. K.N.Thampi

For respondents : Mr.D.Ghandiraj
Special Government Pleader for R1 & R2
Mr.S.Kameswaran
Government Advocate for R3

ORDER

This Writ Petition is taken up for hearing at the time of admission with the consent of the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2 and the learned Government Advocate for the third respondent and after dispensing with the notice on the fourth respondent, as no adverse orders are proposed to be passed against the fourth respondent.



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2. This Writ Petition has been filed by the elder son of the fourth respondent in whose favour the fourth respondent had earlier executed a Settlement Deed, dated 19.10.2020, whereby 75.455 cents of land were settled in favour of the petitioner.

3. It appears that the fourth respondent had approached the second respondent under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, for cancellation of all the settlement deeds, as the petitioner and the other children had failed to undertake the obligation in connection with the youngest daughter of the fourth respondent/sister of the petitioner.

4. It appears that the proceedings initiated by the fourth respondent were dismissed by the second respondent in his proceedings dated 30.04.2025 bearing reference in No.A2/254/2024. Aggrieved by the same, the fourth respondent had filed an appeal before the first respondent, who is the Appellate Authority under Section 16 of the said Act, who, by the impugned order, dated 02.07.2025 bearing reference Mu.Mu.C3/3368886/2025, has allowed the appeal whereby the



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settlement deed executed in favour of the children of the fourth respondent has been cancelled with a view to equitably distribute the extent in favour of the other children of the fourth respondent.

5. The learned counsel for the petitioner has drawn attention to the decisions of the Hon'ble Supreme Court in the following two cases:

1. ***Sudesh Chhikara vs. Ramti Devi and another*** reported in **2022 SCC Online SC 1684**;
2. ***Urmila Dixit vs. Sunil Sharan Dixit and others*** reported in **(2025) 2 SCC 787**.

6. On the other hand, the learned Special Government Pleader for the respondents 1 and 2, has placed reliance on the decision of the Hon'ble Division Bench of this Court in ***Easwaramoorthy vs. Paranthaman and others in W.A.No.3642 of 2024, dated 07.04.2025***.

7. The learned Special Government Pleader for the respondents 1 and 2 has also placed a reliance on the decision cited by the ***Urmila Dixit***'s case (cited supra).



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8. It is noticed that after the decision of the Supreme Court in **Urmila Dixit's** case (cited supra), the Hon'ble Division Bench of this Court in **Easwaramoorthy's** case (cited supra) has taken a view that even if there is no condition for maintaining the elder, such deeds can be cancelled under Section 23 of the said Act. Further, the Hon'ble Division Bench has placed a reliance on the decision of the Hon'ble Supreme Court in **Urmila Dixit's** case (cited supra), 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.



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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.*

26. *In view of the above, the impugned judgment and order with the particulars as described in paragraph one of this judgment, is set aside. Consequently, the Gift Deed dated 07.09.2019 is quashed. In the attending facts and circumstances of this case, the Appeal is allowed. Possession of the premises shall be restored to the Appellant by 28.02.2025.*

9. The decision of the Hon'ble Division Bench in ***Easwaramoorthy***'s case (cited supra) has been however dissented from by the learned Single Judge of this Court in ***Annadurai vs. District Collector and others***, vide its order dated ***01.07.2025 in W.P.(MD) No.23491 of 2022.***

10. The decisions cited by the learned counsel for the petitioner as also the learned Special Government Pleader for the respondents 1 and 2 have not taken note of the fact that 'gift' as defined under Section 122 of the Transfer of



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Properties Act, 1882 and 'settlement' as defined under Section 2(24) of the Stamp Act, 1899 are different and they have different connotation in ***Pandiselvi vs. The Revenue Divisional Officer cum Executive Magistrate and others in W.P.(MD No.26973 of 2023, dated 14.08.2025***, the Court has observed that whenever a property is settled by the settlor in favour of the settlee, the settlee is expected to maintain either the settlor or any person, who is dependent of the settlor, as such obligation to maintain is implicit in case of a Settlement Deed.

11. The Court has also taken note of a few decisions of the Hon'ble Supreme Court, where the distinction between the gift deed and the settlement deed has been drawn attention to. However, it is noticed that most of the decisions that have been rendered in the context of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, have not taken note of all these fine definitions in law.

12. This Court in the case of ***Pandiselvi*** (cited supra) has come to the same conclusion as that of the Hon'ble Division Bench based on the reasoning given therein. Therefore, I find no merits in the challenge made to the impugned order



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of the first respondent, although the conclusion is on a different footing.

Therefore, this Writ Petition is liable to be dismissed.

13. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes / No

apd

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C.SARAVANAN, J.

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