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W.P.(MD)NO.24451 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24451 of 2022

and

W.M.P.(MD)No.18534 of 2022

S.Mohamed Shali

... Petitioner

Vs.

1. The Presiding Officer/ District Collector,
Maintenance and Welfare of Parents and
Senior Citizen Tribunal,
Tenkasi District.
2. The Presiding Officer / The District Revenue Officer,
Maintenance and Welfare of Parents and Senior Citizen Tribunal,
Tenkasi.
3. M.Sheik Mydeen
4. M.Beesa Beevi

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the first respondent in Na.Ka.xs1/6439/2022 dated 10.05.2022 and quash the same and consequently confirm the order passed by the second respondent in Na.Ka.A2/6301/2021 dated 25.02.2022.



For Petitioner : Mr.R.Anand
For R-1 & R-2 : Mr.M.Gangatharan,
Government Advocate.
For R-3 & R-4 : No appearance.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for respondents 1 and 2.

2. During the last hearing, the learned counsel appearing for respondents 3 and 4 took time to get instructions. However, today there is no appearance on their behalf. I am, therefore, left with no other option but to pass order in their absence.

3.The writ petitioner executed settlement deed dated 08.08.2014 in favour of his wife Beesha Beevi, the fourth respondent herein. Subsequently, the petitioner moved the Maintenance Tribunal for cancelling the document. The Maintenance Tribunal accepted the plea of the petitioner and cancelled the settlement deed vide order dated 25.02.2022. Aggrieved by the same, the fourth respondent herein



filed an appeal before the first respondent. The first respondent vide order dated 10.05.2022 reversed the decision of the Maintenance Tribunal. Challenging the same, this writ petition has been filed.

4.The writ petitioner herein states that his wife is presently living with their son in Madurai. The petition-mentioned property that was gifted by the petitioner had been let out in favour of a tenant. The tenant is said to be paying a sum of Rs.6,000/- per month to the fourth respondent. The petitioner states that he will pay a sum of Rs.6,000/- towards maintenance to the fourth respondent. He further undertakes that the petition-mentioned house will not be alienated or encumbered by him. This undertaking given by the petitioner is placed on record and it will ensure that the property will go to his wife and children after his demise.

5.The appellate authority reversed the decision of the Maintenance Tribunal on the ground that the writ petitioner herein was not entitled to maintain an application under the Act. No reason has been spelt out in the order of the appellate authority. I assume that it must have been in the mind of the appellate authority that since the writ petitioner is a pensioner (i.e., a retired government employee) and



is able to maintain himself, he cannot invoke the jurisdiction of the Tribunal. The appellate authority had reversed the decision of the Maintenance Tribunal only on the ground that the writ petitioner is in a position to maintain himself.

6.The question that calls for consideration is whether this approach is legally correct.

7.The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a beneficial legislation. In order to provide speedy remedy to the Senior Citizens, the Act contains provisions to ensure their normal life during old-age. Section 4 of the Act reads as follows:

“4. Maintenance of parents and senior citizens.—

(1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under Section 5 in case of—(i) parent or grandparent, against one or more of his children not being a minor;

....”

Section 4 (1) of the Act gives an impression that a parent or a senior citizen who is able to maintain himself from his own earning or out of the property owned by him shall not be entitled to make an application



under Section 5 of the Act. Section 5 of the Act deals with maintenance. Technically speaking, the case on hand is more about cancellation of a document and obtaining relief under Section 23 of the Act. When relief is sought under Section 23 of the Act, the fact that the applicant is able to maintain himself is irrelevant. The apparent impediment or barrier created by the language of Section 4 will apply only when relief is sought under Section 5 and not under Section 23 of the Act.

8.I, therefore, hold that the conclusion of the appellate authority that the petitioner is not entitled to seek relief under Section 4 of the Act is not sustainable. The order impugned in the writ petition is set aside.

9.This writ petition is allowed. No costs.

27.11.2025

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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7

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G.R.SWAMINATHAN,J.

PMU/skm

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