



W.P.(MD) No.25116 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2025

**CORAM:**

**THE HONOURABLE MS.JUSTICE P.T.ASHA**

**W.P.(MD) No.25116 of 2025**

Ramanujam

.. Petitioner

Vs.

1.The District Collector,  
Thoothukudi,  
Thoothukudi District.

2.The Revenue Divisional Officer,  
Kovilpatti,  
Thoothukudi District.

3.The Sub Registrar,  
Kadampur Sub Registrar Office,  
Thoothukudi District.

4.Bose

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 30.07.2025 passed by the 1<sup>st</sup> respondent in Na.Ka.C1/e-3093497/2025 and quash the same as illegal and consequently direct the respondent No.1 and 2 to take appropriate action to cancel the gift deed dated 30.12.2020 registered at 3<sup>rd</sup> respondent office in document no.1639/2020 which was executed by



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the petitioner in favour of 4<sup>th</sup> respondent.

For Petitioner : Mr.R.Venkatesan

For R1 - R3 : Mr.D.Sasikumar  
Additional Government Pleader

### **ORDER**

Challenging the order passed by the 1<sup>st</sup> respondent, dated 30.07.2025, the petitioner is before this Court.

2. It is the contention of the petitioner that he had served as a Driver in Central Council for Research in Ayurvedic Science and he has two married daughters, who are living with their families. The petitioner's wife had predeceased him on 14.06.2020. The petitioner would submit that he has no male issues. Since he did not have any male issue and as the 4<sup>th</sup> respondent who is petitioner's brother had assured that he would take care of the petitioner by taking care of his health and food till his death, had executed a settlement deed in favour of the 4<sup>th</sup> respondent at his behest. The petitioner had executed a settlement deed only on the assurance and belief that the 4<sup>th</sup> respondent would take care



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of the petitioner. However, after gift deed was executed in favour of the 4<sup>th</sup> respondent, the 4<sup>th</sup> respondent's attitude underwent a complete change and he did not take any steps to look after the petitioner. Therefore, the petitioner had given a petition to respondents 1 to 3 on 08.03.2025 to take action to cancel the gift deed executed by him in favour of the 4<sup>th</sup> respondent. The 1<sup>st</sup> respondent had forwarded the application to the 2<sup>nd</sup> respondent to take necessary action. Since the 2<sup>nd</sup> respondent had not taken action, immediately the petitioner had filed a writ petition where directions were issued to the 2<sup>nd</sup> respondent to consider the petitioner's representation and pass appropriate order in accordance with law by order dated 22.04.2025. However, the 2<sup>nd</sup> respondent hurriedly passed the impugned order rejecting the request of the petitioner. Therefore, the petitioner is before this Court.

3. Heard the learned counsels on either side.

4. The Act can be invoked only when the transfer document contains a condition that the transferee shall take care of the transferror.



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The Hon'ble Supreme Court in the case of ***Sudesh Chhikara Vs., Ramti***

***Devi and another***, 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*



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*earlier, it is not even pleaded by respondent no.1 that the release deed was executed subject to such a condition. “*

5. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 gives a right to the senior citizens to declare a transfer of property void in case the transferee fails to provide the promised basic amenities and care. Therefore, *sin qua non* for invoking the provisions of this Section is that the document under which the transfer has been effected should contain a condition that the transferee shall take care of the basic needs and amenities of the transferer.

6. Relying upon the above said judgment in the case of ***Urmila Dixit Vs., Sunil Sharan Dixit and others***, the Hon'ble Supreme Court has 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,*



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*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. Therefore, it becomes imperative to peruse the settlement deed executed by the petitioner in favour of the 4<sup>th</sup> respondent. A perusal of the same would show that no condition has been reserved by the petitioner. Therefore, in the light of the provisions of the Act as well as the above judgment, I see no reason to interfere with the impugned order.

8. Accordingly, this Writ Petition stands dismissed. No costs.

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

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**P.T.ASHA, J.**

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