

W.P.(MD) No.26973 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	06.08.2025
Pronounced on	14.08.2025

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THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.26973 of 2023

and

W.M.P.(MD) Nos.23166 & 23167 of 2023

T.Pandiselvi

... Petitioner

Vs.

1.The Revenue Divisional Officer cum
Executive Magistrate,
The Authority under the Maintenance and
Welfare of Parents and Senior Citizens Act,
Usilampatti, Madurai.

2.The Sub-Registrar,
Elumalai, Madurai.

3.The Deputy Superintendent of Police,
Peraiyur, Madurai.

4.The Inspector of Police,
Elumalai Police Station, Madurai.

5.The Tahsildar,
Peraiyur Taluk, Madurai.

6.K.Dhanushkodi

7.D.Veyilmuthu

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned order of the first respondent in P.Mu.No.1265/2023/A4 dated 25.10.2023 and quashing the same.

For Petitioner : Mr.K.K.Udhyakumar

For R1, R2 & R5 : Mr.D.Ghandiraj
Special Government Pleader

For R3 & R4 : Mr.Vaikam Karunanithi
Government Advocate (Crl. Side)

For R6 & R7 : Mr.K.Gurunathan
for Mr.R.Selvam

ORDER

The Petitioner is before this Court challenging the Order dated 25.10.2023, bearing reference P.Mu.No.1265/2023/A4 (hereinafter referred to as the 'Impugned Order'), passed by the 1st Respondent in a petition filed by the 6th and 7th Respondents under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. By the Impugned Order dated 25.10.2023, the 1st Respondent has ordered the cancellation of the Settlement Deed dated 30.11.2015, registered as Document No.1745 of 2015. By the aforesaid Settlement Deed dated 30.11.2015, the 6th Respondent, K.Dhanushkodi had settled



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the land measuring an extent of 1254 sq.ft. together with house in favour of the Petitioner. Operative portion of the Impugned Order dated

25.10.2023 reads as under:

“தீர்ப்புரை:

மனுதாரர் திரு.தனுஷ்கோடி த/பெ.காசி (1) என்பவர் சொசைட்டியில் கணக்காளராக பணிபுரிந்து ஓய்வு பெற்று தற்போது மாத ஓய்வூதியமாக சுமார் ரூ. 2,000/- பெற்று வருகிறார் என்பது விசாரணையில் தெரிய வருகிறது. மேலும், மனுதாரர் திரு.தனுஷ்கோடி த/பெ.காசி (1) என்பவர் எதிர்மனுதாரர் திருமதி.பாண்டிச்செல்வி க/பெ.தங்கச்சாமி என்பவருக்கு தானமாக எழுதி கொடுத்த பேரையூர் வட்டம், மள்ளப்புரம் கிராமம், பட்டா எண்: 2010, புலஎண்: 181/3-ல் கண்ட சொத்தினை உள்ளடக்கிய எழுமலை சார்பதிவக ஆவண எண்: 1745/2015 நாள்: 30.11.2015-ன் படி ரூரல் ஹவுசிங் பைனான்ஸ் லிமிடெட் மூலம் அடமான கடனுக்காக பதிவு செய்யப்பட்டுள்ளது வில்லங்கச்சான்றின் மூலம் தெரியவருகிறது. 2-ஆம் மனுதாரர் வெயில்முத்து பெயரிலுள்ள வீட்டில் மனுதாரர்கள் வசித்து வருவது கிராம நிர்வாக அலுவலர் விசாரணை மூலம் தெரிய வருகிறது. இருப்பினும் மனுதாரர்களுக்கு உரிய மருத்துவ செலவுகள் மற்றும் அடிப்படைத் தேவைகளை பூர்த்தி செய்து கொள்ள போதுமான வாழ்வாதாரமும் அவசியமாகிறது.

எனவே, மனுதாரர் திரு.தனுஷ்கோடி த/பெ.காசி (1) என்பவர் எதிர்மனுதாரர் திருமதி.பாண்டிச்செல்வி என்பவருக்கு தானசெட்டில்மெண்டாக பதிவு செய்து கொடுத்த எழுமலை கிராம சார்பதிவக ஆவண எண்: 1745/2015 என்ற எண்ணுள்ள தானசெட்டில்மெண்ட் பத்திரமானது ரத்து செய்து இதன் மூலம் ஆணையிடப்படுகிறது.

மேலும் மனுதாரர்கள் திரு.தனுஷ்கோடிமற்றும் திருமதி.வெயில்முத்து ஆகியோர் வாழ்நாள் வரையிலும் தற்போது குடியிருக்கும் வீட்டில் வசித்து வரலாம் எனவும், மனுதாரர்கள் திரு.தனுஷ்கோடி மற்றும் திருமதி.வெயில்முத்து ஆகியோரை மனதளவில் மற்றும் உடலளவில் இடையூறு செய்யக் கூடாது எனவும் இதன் மூலம் உத்தரவிடப்படுகிறது.



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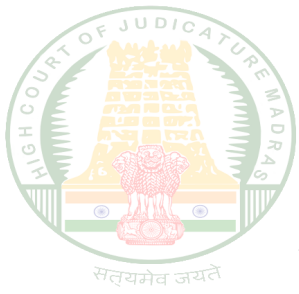
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பேரையூர் வட்டம், எழுமலை காவல் ஆய்வாளர், மேற்படி உத்தரவின்படி அதனை கண்காணித்து வாரிசுகள் மூலம் இவ்வுத்திரவினை நிறைவேற்றுவதை உறுதி செய்ய பெற்றோர் மற்றும் முதியோர் பராமரிப்பு சட்டம் விதிகள் 23 மற்றும் 22(2)-ன் கீழ் நடவடிக்கை மேற்கொள்ள இதன் மூலம் உத்தரவிடப்படுகிறது.

மேற்படி உத்தரவினால் மனுதாரருக்கு ஆட்சேபணை இருப்பதாக கருதினால், பெற்றோர் மற்றும் மூத்த குடிமக்கள் பாதுகாப்பு மற்றும் நல்வாழ்வு சட்டம் 2007-ன் பிரிவு 15(1) ன் படி மாவட்ட ஆட்சித்தலைவரை தலைவராகக் கொண்ட மேல்முறையீட்டு தீர்ப்பாயத்திற்கு இந்த உத்தரவு கிடைக்கப்பெற்ற 60 தினங்களுக்குள் மேற்படி சட்டப்பிரிவு 6(1)-ன் படி இந்த உத்தரவு நகலுடன் மேல்முறையீடு செய்து கொள்ளலாம் எனத் தெரிவிக்கப்படுகிறது.

3. The 1st Respondent, while canceling the aforesaid Settlement Deed dated 30.11.2015, permitted the 6th and 7th Respondents herein to reside in the house and further directed that they shall not be disturbed physically or mentally during their lifetime. However, the Petitioner and her husband have not been specifically asked to vacate the house that had earlier been settled in favour of the Petitioner by the 6th Respondent *vide* the aforesaid Settlement Deed dated 30.11.2015.

4. A reading of the records indicate that the Petitioner Pandiselvi, one Dhanalakshmi and Chellanpandi are the biological children of late Periyasamy and late Nallakudi. Late Nallakudi is none other than the sister of the 7th Respondent.



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5. Late Periyasamy, the biological father of the Petitioner/Pandiselvi, Dhanalakshmi and Chellanpandi, during his lifetime, had purchased a property in Survey No.181/3, Mallapuram Village, Peraiyur Taluk, Madurai District measuring an extent of 2151³/₄ square feet, *vide* a registered Sale Deed dated 31.01.2007.

6. Late Periyasamy, i.e., the biological father of the Petitioner Pandiselvi, Dhanalakshmi and Chellanpandi, died on 09.01.2009. The biological mother of the Petitioner/Pandiselvi, Dhanalakshmi and Chellanpandi, late Nallakudi, who is the sister of the 7th Respondent, also died on 17.08.2020.

7. The biological mother of the Petitioner/Pandiselvi, Dhanalakshmi and Chellanpandi, late Nallakudi, executed a Sale Deed dated 10.07.2015 in favour of the 6th Respondent and conveyed an extent of 1254 square feet out of 2151³/₄ square feet of land in Survey No.181/3, which had earlier been purchased by late Periyasamy, the biological father of the Petitioner/Pandiselvi, Dhanalakshmi and Chellanpandi, on 31.01.2007. It appears that on the said land, the 6th Respondent K.Dhanushkodi had put up a construction.



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WEB COPY 8. The 6th Respondent later settled the said property together with the house in favor of the Petitioner *vide* Settlement Deed dated 30.11.2015 registered as Document No.1745 of 2015, which has now been canceled by the 1st Respondent *vide* the Impugned Order dated 25.10.2023.

9. It appears that at the time of execution of the aforesaid Sale Deed dated 10.07.2015 in favor of the 6th Respondent, the Petitioner as well as the Petitioner's other siblings Dhanalakshmi and Chellapandi were majors. However, they were not made as party to the aforesaid Sale Deed dated 10.07.2015. Later, the Petitioner and her siblings namely Dhanalakshmi and Chellapandi entered into a Rectification Deed dated 30.03.2017 and rectified the aforesaid Sale Deed dated 10.07.2015 stating that the sale in favour of the 6th Respondent was valid. However, a copy of the Rectification Deed dated 30.03.2017 has been filed before this Court. At the same time, there is no dispute regarding execution of the Rectification Deed dated 30.03.2017.

10. It is the case of the Petitioner that after the land together with house was settled in favour of the Petitioner by the 6th Respondent on



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30.11.2015, the Petitioner obtained a loan of Rs.7,50,000/- from the State Bank of India, Elumalai Branch. It is stated that the entire loan amount of Rs.7,50,000/- was paid by the Petitioner to the 6th Respondent to settle the amount due in a surcharge proceedings against the 6th Respondent after an order was passed by the Mallapuram Agricultural Co-operative Societies. However, there are no such records before this Court.

11. However, a perusal of the records before this Court indicates that the loan was actually obtained by the Petitioner on 31.05.2017 for a sum of Rs.7,50,000/-, out of which a sum of Rs.4,00,000/- was transferred by the Petitioner to the 6th Respondent on 03.06.2017, i.e., after three days.

12. A further perusal of the records also indicate that a sum of Rs. 1,50,000/- was also transferred to one Rathinam, the brother of Thangasamy, the husband of the petitioner, on 03.06.2017. According to the Petitioner, the said amount was transferred to Rathinam only for the purpose of withdrawing the same and for handing it over to the 6th Respondent in cash.



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WEB COPY 13. However, there is no reason forthcoming as to why the said amount of Rs.1,50,000/- was not transferred directly to the 6th Respondent along with the amount of Rs.4,00,000/-, even though both transactions were made on the very same day.

14. That apart, it is the case of the Petitioner that from the above amount of Rs.5,50,000/- [Rs.4,00,000 + Rs.1,50,000], the Petitioner had given the remaining amount of Rs.2,00,000/- to the 6th Respondent in cash. However, there are no records to substantiate the same.

15. In response to the above submission of the learned counsel for the Petitioner, the learned counsel for the 6th and 7th Respondents submits that it was only the Petitioner who was in urgent need of money and that for that purpose, the Petitioner had pledged the Settlement Deed dated 30.11.2015 registered as Document No.1745/2015 and obtained the loan.

16. The learned counsel for the 6th and 7th Respondents further submits that the amount of Rs.4,00,000/- transferred by the Petitioner to the 6th Respondent was nothing but for the discharge of the debt of the



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Petitioner's husband and it had no connection with the 6th Respondent and that no surcharge proceeding was initiated against the 6th Respondent as stated by the Petitioner. It is further submitted that except for the amount of Rs.4,00,000/-, no other amount has been given to the 6th Respondent.

17. It is further the case of the Petitioner that the 6th Respondent executed an unregistered Mortgage Deed dated 11.08.2017 for a sum of Rs.10,67,000/- in favour of the Petitioner, undertaking to repay the said amount by January 2018. However, the 6th Respondent has not paid any amount. Instead, the 6th Respondent filed a petition on 24.03.2023 before the 1st Respondent under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

18. It is the case of the Petitioner that the Petitioner is not the adopted daughter of the 6th and 7th Respondents. However, the 1st respondent has come to an erroneous conclusion that the Petitioner is the adopted daughter of the 6th and 7th Respondents and accordingly ordered the cancellation of the Settlement Deed dated 30.11.2015.

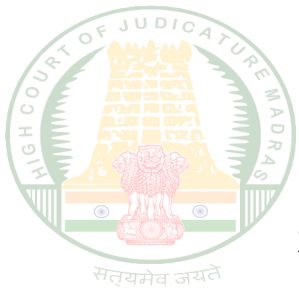


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19. The learned counsel for the Petitioner submits that the Petitioner is not the adopted daughter of the 6th and 7th Respondents and that only the Petitioner's elder sister, namely Dhanalakshmi, is the adopted daughter of the 6th and 7th Respondents *vide* Adoption Deed dated 15.07.1997 registered as Document No.11 of 1997. However, there are no records to indicate that the Petitioner is the adopted daughter of the 6th and 7th Respondents.

20. Per contra, the learned counsel for the 6th and 7th Respondents submits that the Settlement Deed dated 30.11.2015 clearly mentions that the Petitioner is the daughter of the 6th and 7th Respondents and that only out of love and affection, the property was settled in her favour.

21. The learned counsel for the 6th and 7th Respondents further submits that from the Petitioner's childhood, the 6th and 7th Respondents brought her up as their younger daughter, providing her with food, shelter, and education up to the 10th standard. It is further submitted that the Petitioner fell in love and left home and that since there was a matrimonial dispute in that marriage, the 6th and 7th Respondents supported the Petitioner and assisted her in obtaining a divorce.



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22. The learned counsel for the 6th and 7th Respondents further submits that thereafter, the Petitioner married one Thangasamy and that out of love and affection, at the time of the marriage, the 6th and 7th Respondents gifted 23 sovereigns of gold and household utensils worth about Rs.3,00,000/-. It is further submitted that they secured employment for the petitioner's husband, namely, Thangasamy, as a mechanic with the Tamil Nadu State Transport Corporation Ltd. (TNSTC), Usilampatti, by spending a sum of Rs.4,00,000/-.

23. The learned counsel for the 6th and 7th Respondents further submits that the signature in the unregistered Mortgage Deed dated 11.08.2017, which is said to have been executed by the 6th Respondent in favour of the Petitioner for a sum of Rs.10,67,000/-, is not that of the 6th Respondent.

24. The learned counsel for the 6th and 7th Respondents further submits that the Petitioner is bound to maintain the 6th and 7th Respondents as her parents and, therefore, they approached the authorities under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



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WEB COPY 25. The learned counsel for the 6th and 7th Respondents further submits that the Petitioner filed a suit in O.S.No.741 of 2018 before the District Munsif-cum-Judicial Magistrate, Peraiyur, for permanent injunction, which was dismissed for default on 11.12.2020, only with a view to grab the property of the sixth and seventh respondents.

26. The learned counsel for the Petitioner submits that the Settlement Deed dated 30.11.2015, executed by the 6th Respondent, is not conditional and, therefore, no liability is cast upon the Petitioner or her husband, Thangasamy, to maintain the 6th and 7th Respondents, namely K.Dhanushkodi and D.Veyilmuthu.

27. Per contra, the learned counsel for the 6th and 7th Respondents submits that, though no condition was imposed in the Settlement Deed dated 30.11.2015, since the Petitioner is construed as the daughter of the 6th and 7th Respondents, she is automatically bound to maintain her parents, i.e., the 6th and 7th Respondents, and cannot escape liability by quoting certain judgments stating that there were no averments in the said Settlement Deed dated 30.11.2015.



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WEB CD **DISCUSSION:-**

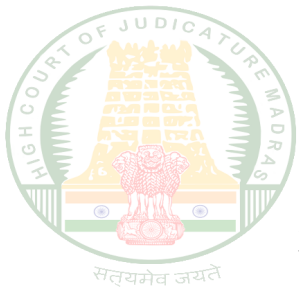
28. I have considered the arguments advanced by the learned counsel for the Petitioner, the learned Special Government Pleader for the 1st, 2nd and 5th Respondents, the learned Government Advocate for the 3rd and 4th Respondents, the learned counsel for the 6th and 7th Respondents.

BRIEF FACTS OF THE CASE:-

29. The Petitioner is the niece of the 6th Respondent. The Petitioner is the one of the daughters of the sister of the 7th Respondent. The 6th Respondent is the wife of the 7th Respondent.

30. The 6th and 7th Respondents are childless couple who had adopted the Petitioner's elder sister, namely Dhanalakshmi, by a registered Adoption Deed dated 15.07.1997. There is no dispute regarding the same.

31. The 6th Respondent has settled the property measuring an extent of 1254 sq.ft. in favour of the Petitioner *vide* a Settlement Deed dated 30.11.2015, registered as Document No.1745 of 2015.

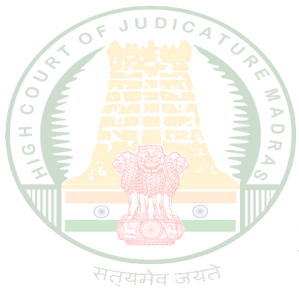


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32. In the said Settlement Deed dated 30.11.2015, it is recorded that the Petitioner was the younger daughter of the 6th and 7th Respondent. It was presumably stated so, on account of the fact that the Petitioner's elder sister Dhanalakshmi was earlier adopted by the 7th Respondent *vide* a registered Adoption Deed dated 15.07.1997.

33. There are however no documents to show that the petitioner was also adopted by the sixth and the seventh respondents in accordance with the provisions of the Hindu Adoptions and Maintenance Act, 1956. Adoption is regulated by Chapter II of the Hindu Adoptions and Maintenance Act, 1956, and any adoption made in contravention of its provisions is / are void.

34. There are also no documents to indicate that any of the procedures prescribed under the aforesaid Act have been followed to infer that the Petitioner was adopted by the 6th and 7th Respondents. Since no adoption was made as per the procedure prescribed under the said Act, it has to be therefore construed that the Petitioner is not the adopted daughter of the 6th and 7th Respondents.



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35. The Petitioner is therefore neither the biological daughter nor the adopted daughter of the 6th and 7th Respondent as per the provisions of the Hindu Adoptions and Maintenance Act, 1956.

36. However, that did not preclude the execution of the Settlement Deed dated 30.11.2015, by the 6th Respondent in favor of the Petitioner whereby the land together with a house built thereon were settled by the 6th Respondent in favor of the Petitioner.

37. It is the contention of the Petitioner that the 6th Respondent also executed an unregistered Mortgage Deed dated 11.08.2017 for a sum of Rs.10,67,000/- in favour of the Petitioner in respect of the land which was settled by the 6th Respondent *vide* Settlement Deed dated 30.11.2015. The signature in the said unregistered Mortgage Deed is questioned by the 6th Respondent. The 6th Respondent contends that the signature in the said Mortgage Deed dated 11.08.2017 is not that of the 6th Respondent and that it is forged signature of the 6th Respondent.

38. Relevant portion of the said Settlement Deed dated 30.11.2015 reads as under:-



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“நீ என் இளைய மகள். நான் உன் தந்தை. இவ்விதம்
நம் உறவுச் சொந்தம். ...”

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DICUSSION ON THE PRECEDENTS:-

39. It would be useful to refer to the decision of the Hon'ble Full Bench of this Court in *Sasikala Vs. The Revenue Divisional Officer, cum Sub Collector, Devakottai and Ors.*, AIR 2022 Mad 323. The Court in *Sasikala Vs. The Revenue Divisional Officer* (cited *supra*) with regard to unilateral cancellation of gift deed has observed as under:-

“Regarding gift or settlement:

55. With regard to unilateral cancellation of gift deed, which is not revocable and does not come under the purview of Section 126 of the Transfer of Property Act, the Registrar has no power to accept the deed of cancellation to nullify the registered settlement deed. Section 126 of the Transfer of Property Act, reads as follows:

“126. When gift may be suspended or revoked.— The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be. A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded. Save as aforesaid, a gift cannot be revoked. Nothing contained in this section shall be deemed to affect



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the rights of transferees for consideration without notice.

56. Section 126 of the Transfer of Property Act recognizes the power of revocation where the donor reserves a right to suspend or revoke the gift on happening of any specified event. However, the illustrations clarifies that the revocation should be with the assent of the donee and it shall not be at the will of donor as a gift revocable at the mere Will of the donor is void. The Sub-registrar cannot decide whether there was consent for revocation outside the document. If the donor by himself reserves a right to revoke the gift at his Will without the assent by donee, the gift itself is void. Since we are dealing with unilateral cancellation, the power of registration of cancellation or revocation of gift deed cannot be left to the discretion or wisdom of registering authority on facts which are not available or discernible from the deed of gift. When the power of revocation is reserved under the document, it is permissible to the registering officer to accept the document revoking the gift for registration only in cases where the following conditions are satisfied;

- (a) There must be an agreement between the donor and donee that on the happening of a specified event which does not depend on the Will of the donor the gift shall be suspended or revoked by the donor.*
- (b) Such agreement shall be mutual and expressive and seen from the document of gift.*
- (c) Cases which do not fall under Section 126 of Transfer of Property Act, unless the cancellation of Gift or Settlement is mutual, the registering authority shall not rely upon the self serving statements or recitals in the cancellation deed. For example questioning whether the gift deed was accepted or acted upon cannot be decided by the registering authority for the purpose of*



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cancelling the registration of gift or settlement deed.

57. The donor must specifically reserves such right to suspend or revoke the gift deed with the consent of donee to attract Section 126 of the Transfer of Property Act. Unless the agreement is mutual, expressed in the recitals, the Registering Authority cannot accept the document for registration. However, the factual allegations with regard to the acceptance of gift or the issue where the gift was acted upon or not do not come under the purview of the Registering Officer. Hence, the Registering Officer is not excepted to accept the document unilaterally cancelling the gift deed, merely on the basis of the statement of the donor or the recitals in the document for cancellation.

58. From the discussions and conclusions we have reached above with reference to various provisions of Statutes and precedents, we reiterate the dictum of Hon'ble Supreme Court in Thota Ganga Laxmi v. Government of Andhra Pradesh, reported in (2010) 15 SCC 207 and the Full Bench of this Court in Latif Estate Line India Ltd., case, reported in AIR 2011 Mad 66 and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in Veena Singh's case reported in (2022) 7 SCC 1 and the judgment of two member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Ltd., Case, reported in 2022 SCC OnLine SC 544 for the following propositions:

- (a) A sale deed or a deed of conveyance other than testamentary dispositions which is executed and registered cannot be unilaterally cancelled.*
- (b) Such unilateral cancellation of sale deed or a deed of conveyance is wholly void and non est and does not operate to execute, assign, limit or*



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- extinguish any right, title or interest in the property.*
- (c) Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.*
 - (d) The transferee or any one claiming under him or her need not approach the civil Court and a Writ Petition is maintainable to challenge or nullify the registration.*
 - (e) However, an absolute deed of sale or deed of conveyance which is duly executed by the transferor may be cancelled by the Civil Court at the instance of transferor as contemplated under Section 31 of Specific Relief Act.*
 - (f) As regards gift or settlement deed, a deed of revocation or cancellation is permissible only in a case which fall under Section 126 of Transfer of Property Act, and the Registering Authority can accept the deed of cancellation of gift for registration subject to the conditions specified in para 42 of this judgment.*
 - (g) The legal principles above stated by us cannot be applied to cancellation of Wills or power of Attorney deed which are revocable and not coupled with interest.*

59. *As a result of our forgoing conclusions, we answer the reference by holding that the Registrar has no power to accept the deed of cancellation to nullify the deed of conveyance made earlier, when the deed of conveyance has already been acted upon by the transferee. Since anyone may try to mislead or misinterpret our judgment by referring to the question of reference we insist that our answer to the reference should be understood in the light of our conclusions summarised in the previous paragraph.”*



WEB COPY 40. This decision of the Full Bench of this Court in ***Sasikala Vs.***

The Revenue Divisional Officer, cum Sub Collector, Devakottai and Ors., AIR 2022 Mad 323 was rendered before the decision of the Hon'ble Supreme Court in ***Urmila Dixit Vs. Sunil Sharan Dixit and others***, (2025) 2 SCC 787.

41. However, the Hon'ble Supreme Court in ***Urmila Dixit Vs. Sunil Sharan Dixit and others***, (cited *supra*), observed as under:-

“24. Before parting with the case at hand, we must clarify the observations made vide the impugned order [Sunil Sharan Dixit v. Urmila Dixit, 2022 SCC OnLine MP 3776] qua the competency of the Tribunal to hand over possession of the property. In S. Vanitha [S. Vanitha v. Commr., (2021) 15 SCC 730] , 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 stand-alone 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



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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 [Sunil Sharan Dixit v. Urmila Dixit, 2022 SCC OnLine MP 3776] with the particulars as described in para 1 of this judgment, is set aside. Consequently, the gift deed dated 7-9-2019 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 28-2-2025.

27. The Registry is directed to communicate this judgment to the authorities concerned of the State of Madhya Pradesh who shall ensure compliance. Pending applications, if any, shall stand disposed of.”

42. Most of the decisions rendered recently have referred to the decision of the Hon'ble Supreme Court in ***Urmila Dixit Vs. Sunil Sharan Dixit and others***, (2025) 2 SCC 787. I shall advert to it in due course of the discussion once again.

43. The observations of the Hon'ble Supreme Court in Paragraphs 24 to 26 of the ***Urmila Dixit*** case (cited *supra*), which have been extracted above, make it clear that the extraordinary remedy under



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Sections 23 to 27 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 have to be read in the light of the express language of those Sections.

44. With the above observations, I shall proceed to refer to the scheme of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

45. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been enacted to provide for more effective provisions for the maintenance and welfare of parents and senior citizens, as guaranteed and recognized under the Constitution of India, and for matters connected therewith or incidental thereto.

46. The statement of objects and reasons of the Act, as proposed in the Bill that was presented in the year 2005, reads as under:

“1. 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



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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 the older persons. Though the parents can claim maintenance under the Criminal Procedure Code, 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.

2. 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.

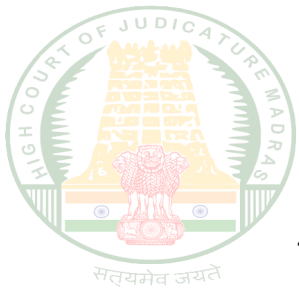
3. The Bill, therefore, proposes to provide for:-

(a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens;

(b) providing better medical facilities to senior citizens;

(c) for institutionalisation of a suitable mechanism for protection of life and property of older persons;

(d) setting up of oldage homes in every district”



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47. This has been captured and summarised by the Division Bench

of this Court in ***Easwaramoorthy v. Paranthaman***, 2025 SCC OnLine

Mad 2483. Relevant paragraphs from the said judgment are reproduced

below:-

24. *The Statement of Objects and Reasons of the Bill which was introduced in 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 the older persons. Though the parents can claim maintenance under the Criminal Procedure Code, 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.”



25. 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 old age 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.

26. 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.

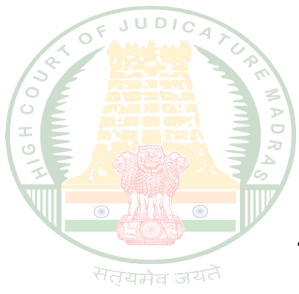
(c) To provide for a suitable mechanism for protection of life and property of senior citizens.

(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.

48. Ordinarily, an order passed under Section 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, pursuant to an application filed by a senior citizen under Section 5 of the aforesaid Act, is appealable under Section 16 before the Appellate Authority, namely the District Collector.



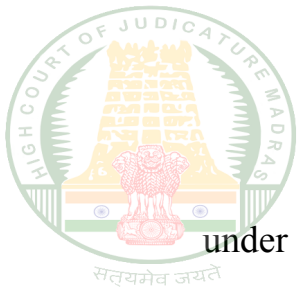
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49. However, such an appeal can be preferred only by a senior citizen or a parent aggrieved by an order of the Tribunal, within a period of sixty days from the date of the order in case of refusal of the authority to declare the Gift Deed as void under Section 23 of the Act. This remedy by way of appeal is not available to a beneficiary of Gift Deed or Settlement Deed.

50. There is no alternate remedy available to the petitioner by way of an appeal before the Appellate Authority under Section 16 of the Act against an order under Section 23 of the Act. This is the view taken by the First Bench of the Principal Bench of this Court in ***K.Raju vs. Union of India and others***, 2021 (2) CTC 129 : 2021 (1) L.W. 820.

51. The above view was also recently followed by a learned Single Judge of this Court in ***R.Satheeshkumar and another vs. The District Collector, Sivagangai District and others***, vide Order dated 02.01.2024, rendered in W.P.(MD) No.5276 of 2020.

52. It is therefore ordered that this Writ Petition is maintainable at the instance of the Petitioner in absence of an alternate remedy of appeal



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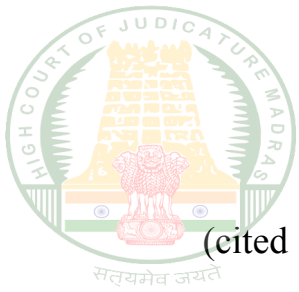
under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

53. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, gives wide power to the Tribunal contemplated under the provisions of the said Act to declare a transfer void where such transfer is subject to the condition that the donee has to maintain the donor (senior citizen).

54. The Division Bench in *Easwaramoorthy Vs. Paranthaman* (cited *supra*) followed its view in its earlier decisions in the following two cases:

- i. *S.Mala Vs. District Arbitrator & District Collector and Others*, 2025 SCC OnLine Mad 1764 : (2025) 2 CTC 373.
- ii. *S.Rajan Vs. S.Srinivasan and others*, dated 01.04.2025, rendered in W.A.No.3178 of 2024 [2025:MHC:849].

55. The decisions in *S.Mala Vs. District Arbitrator & District Collector and Others* (cited *supra*), *S.Rajan Vs. S.Srinivasan and others*



(cited *supra*) and ***Easwaramoorthy v. Paranthaman*** (cited *supra*) were

rendered by the same Division Bench.

56. The conclusion in ***Easwaramoorthy v. Paranthaman*** (cited *supra*) are as under:-

VI. Discussions

59. *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 his son. However, after executing the settlement deed, the conduct of the son and his wife was indifferent towards the senior citizen and wife of the senior citizen. According to the statement of the senior citizen before the Tribunal and the appellate authority/District Collector, he was subjected to physical and mental harassment. He made a specific allegation against his son and his wife, stating that the settlement deed was executed forcibly and coercively. 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.*

60. *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.*



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61. *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.*

62. *Recently, the statistics taken by various organisations 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 oldage they are in lurch. Many senior citizens are now staying in oldage homes or in government homes, if they are poor and even oldaged 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.*

63. *The writ court made findings that the children defending their case merely on the ground that they are willing to provide food and shelter, cannot be considered as a ground for the purpose of sustaining the settlement deed executed by the senior citizen.*

64. *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.*

65. *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*



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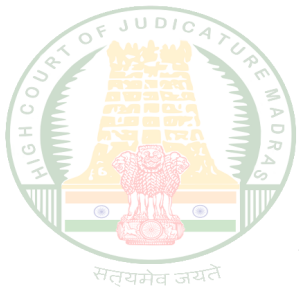
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in application of its mind, has to consider the practicality of the issues as a whole for the purpose of declaring the document as null and void.

66. 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.

67. 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.”

57. The decision of the Division Bench in ***Easwaramoorthy Vs. Paranthaman*** (cited *supra*) more or less encapsulates the position taken by the Division Bench in the context of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The decision of the Division Bench in ***Easwaramoorthy Vs. Paranthaman*** (cited *supra*) has been dissented in a decision in ***Karuppan Vs. District Magistrate-cum-District Collector, Appellate Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act and Ors***, 2025 SCC Online Mad 2826 rendered by a learned Single Judge of this Court.



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58. The learned Single Judge of this Court in ***Karuppan v. District Magistrate-cum-District Collector, Appellate Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act and others*** (referred to supra) held that the view expressed by the Division Bench of this Court in the ***Easwaramoorthy*** case (referred to supra) was *per incuriam*. Relevant paragraphs read as under:-

“45. In the present case, this Court is faced with the two Division Bench judgments, which have ignored the two earlier Coordinate Benches' decisions by taking a different view. The decisions of the Supreme Court in (I) S. Vanitha, (ii) Sudesh Chhikara and (iii) Urmila Dixit do not support the view taken in S. Mala and Easwaramoorthy.

48. This decision was approved by a Three Judges' Bench of the Supreme Court in the case of Enforcement Directorate v. Kapil Wadhawan, [(2024) 7 SCC 147] wherein a guidance was also given to the Court as hereunder:

“The law of binding precedent provides that the rule of per incuriam is an exception to the doctrine of judicial precedent. Quite literally, it provides that when a judgment is passed in ignorance of a relevant precedent or any other binding authority, the same is said to be postulating incorrect law. It becomes pertinent to resolve the conflict arising from diverging opinions by taking recourse to the ratio decidendi of the earliest opinion.”

49. In view of the above, the earlier decisions of R. Sekkappan and D. Devi must be followed in



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preference to the latter decisions in S. Mala and Easwaramoorthy. Even otherwise, it has already been demonstrated that the latter decisions in S. Mala and Easwaramoorthy are also contrary to the decisions of the Supreme Court in S. Vanitha, Sudesh Chhikara and Urmila Dixit. It has also attributed certain observations to the judgments of the Supreme Court, which cannot be found even hard if one were to try. The earlier decisions are supported by numerous decisions of Single Judges of this Court and half a dozen decisions of other High Courts.

51. In the light of the above discussions on the position of law as it stands today, this Court must look into the facts of the present case and examine as to whether the impugned proceedings of the second respondent dated 15.2.2019 requires the interference of this Court.

52. It is not in dispute that the father of the petitioner had executed the said settlement deed dated 06.2.1997 in favour of the petitioner. On reading the recitals in the said settlement deed, it is seen that the properties have been settled in favour of the petitioner absolutely. It has also been stated in the said settlement deed that the said document would not be cancelled under any circumstances and that the possession of the properties involved was also handed over to the petitioner. The fact that the possession of the properties involved was handed over to the petitioner is supported by the patta that was issued in the name of the petitioner in patta No. 831.

53. Apart from that, the name of the petitioner is also found in the kist receipt issued to the petitioner on payment of kist. The father of the petitioner did not reserve any right in the said settlement deed to revoke the same in future on any contingencies. The father of



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the petitioner died and thereafter, the mother of the petitioner filed an application before the second respondent seeking for cancellation of the said settlement deed on the ground that she was deprived of love and affection from the petitioner and that she was not taken care by the petitioner.

54. From the above discussions, this Court has observed that love and affection is not an aspect touching upon the consideration involved in the said settlement deed and that it is, at best, a motive for the settlor to gift/settle the subject properties. This Court has also given a finding that Section 23(1) of the Act deals with a situation where the transfer of property is accompanied by a specific condition to maintain and provide for the needs of a senior citizen. The same cannot be either implied or assumed.

55. As per the scheme of the Act, it is only a senior citizen, who can submit an application and such a senior citizen must be the transferor of the property through a gift, settlement, etc. Hence, except a transferor, no other person can maintain an application under Section 23(1) of the Act before the Authority concerned. As a consequence, the application submitted by the mother of the petitioner is not maintainable and the second respondent ought not to have entertained the said application and passed orders.

56. The upshot of the above discussions, both on facts and in law, would lead to the conclusion that the impugned proceedings is unsustainable.

57. Accordingly, the writ petition is allowed and the impugned proceedings of the second respondent dated 15.2.2019 is hereby quashed. If any entry is made in the encumbrance certificate on the file of the third respondent pursuant to the order dated 15.2.2019 passed by the second respondent, the same shall be



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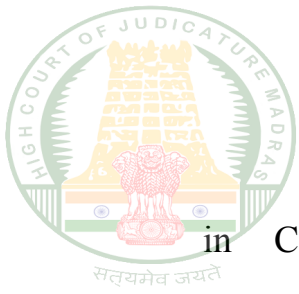
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reversed and the said settlement deed dated 06.2.1997 shall stand restored to the file of the third respondent by virtue of this order. No costs. Consequently, the connected WMPs are closed.”

59. Thus, difficulty has arisen as to whether this Court has to follow the views expressed by the Division Bench of this Court in **S.Mala** case, **S.Rajan** case and **Easwaramoorthy** case referred to *supra* or the views expressed by the learned Single Judge of this Court in **Karuppan** case referred to *supra*. All the above decisions have referred to the decision of the Hon'ble Supreme Court in **Urmila Dixit** case referred to *supra*.

60. The decision in **Urmila Dixit Vs. Sunil Sharan Dixit and others** (cited *supra*) was rendered in an appeal against the judgment of the Division Bench of the Madhya Pradesh High Court in **Sunil Sharan Dixit vs. Urmila Dixit**, 2022 SCC OnLine MP 3776, which reversed the view of the learned Single Judge in **Sunil Sharan Dixit vs. Urmila Dixit**, 2022 SCC OnLine MP 6102.

61. The learned Single Judge of the Madhya Pradesh High Court in **Sunil Sharan Dixit Vs. Urmila Dixit**, 2022 SCC Online MP 6102 affirmed the view of the District Collector, Chhatarpur, dated 25.04.2022

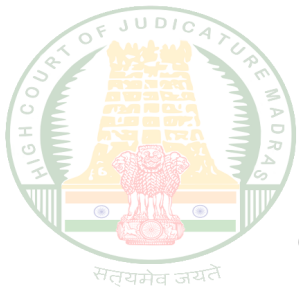


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in Case No.91/Appeal/2021-2022, who in turn affirmed the judgment/order of the Sub-Divisional Magistrate and Chairman, Chhatarpur, dated 27.09.2021 in Case No.98/B-121/2021-22 and thereby allowed the application filed by the petitioner/appellant Mrs.Urmila Dixit by setting aside the gift deed dated 09.09.2019 executed by Mrs.Urmila Dixit in favour of her son Mr.Sunil Sharan Dixit under the provisions of the said Act.

62. There, the appellant Mrs.Urmila Dixit had purchased the property on 23.01.1968. She had later gifted the said property to the respondent in the said case, namely Mr.Sunil Sharan Dixit, by a registered gift deed dated 09.09.2019.

63. The gift deed was conditional gift deed, wherein the son Mr.Sunil Sharan Dixit was required to maintain his mother Mrs.Urmila Dixit. The order also indicates that under the gift deed executed on 09.09.2019, the respondent therein Mr.Sunil Sharan Dixit was required to take care of his mother Mrs.Urmila Dixit during her lifetime. In the event of failure to do so, the appellant Mrs.Urmila Dixit was at liberty to revoke the gift deed.



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64. A gift deed, which reserves such rights, is indeed void within the meaning of Section 126 of the Transfer of Property Act, 1882 as it contains a clause to revoke such a gift deed. Such a gift deed is liable to be declared as void only under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. This aspect has not been considered by the Courts in the above case or by the lower authorities in this case. In fact, this has also not been considered by the Hon'ble Supreme Court in **Urmila Dixit** case referred to *supra*.

65. As mentioned above, the application filed by the mother Urmila Dixit was allowed. It was affirmed by the appellate authority, the District Collector, which was also affirmed by the learned Single Judge of the Madhya Pradesh High Court by order dated 02.08.2022. It was however subsequently reversed by the Division Bench of the Madhya Pradesh High Court by its order dated 31.10.2022. It is in this background the Hon'ble Supreme Court reversed the decision of the Division Bench of the Madhya Pradesh High Court in (2025) 2 SCC 787.

66. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 takes within its fold any transfer, “by way of



gift or otherwise”, where such transfer is subject to the condition that the transferee (donee) has to provide basic amenities and basic physical needs to the transferor (donor).

67. For the sake of clarity, Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is reproduced below:-

23. Transfer of property to be void in certain circumstances.

- (1) Where any senior citizen who, after the commencement of this 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 and shall at the option of the transferor be declared void by the Tribunal.*
- (2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.*
- (3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.*



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WEB COPY 68. If the transferee (donee) refuses or fails to provide such amenities and needs of any senior citizen by way of gift or otherwise, the transfer of property is deemed to have been made by fraud, coercion, or under undue influence at the option of the donor and is liable to be declared void by the Tribunal.

69. There is no difference in the language and construction between Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Clause 23 of the Maintenance and Welfare of Parents and Senior Citizens Bill, 2007, which was presented on 06.09.2007.

70. With reference to Clause 23 of Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 in Paragraph 1.9 of the 28th Report of the Standing Committee on Social Justice and Empowerment (2007-2008), it was stated as follows:

“1.9. Clause 23(1) enables the senior citizen/parent who have transferred by way of gift or otherwise, his/her property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and if such transferee refuses or fails to meet the above stated



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stipulation, 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. It has also been provided in the legislation through clause 5(2) that the Tribunal may, during pendency of the proceedings regarding maintenance, order such children or relative to pay monthly interim maintenance to such senior citizen/parent.”

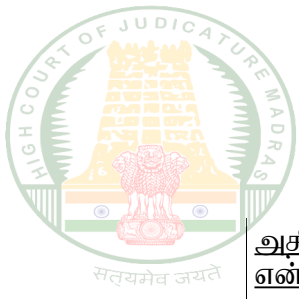
71. Thus, a transfer by way of gift or otherwise, coupled with the condition to maintain the transferor (donor) and a breach thereof by the transferee (donee), would attract the deeming provisions under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

72. As far as the present case is concerned, a reading of the said Settlement Deed dated 30.11.2015 registered as Document No.1745 of 2015 indicates that the 6th Respondent has settled the property in favour of the petitioner stating that he is settling the property for the benefit of the petitioner in future.

73. The content of the said Settlement Deed dated 30.11.2015 is extracted below with English translation:-



Original content of the Settlement Deed dated 30.11.2015	Translated content of the Settlement Deed dated 30.11.2015
நீ என் இளைய மகள். நான் உன் தந்தை. இவ்விதம் நம் உறவுச் சொந்தம். உன் பெயரில் எனக்குள்ள அன்பினாலும் அபிமானத்தாலும் உன் பிற்கால வாழ்க்கை வசதிக்காகவும் ஆதரவுக்காகவும் உனக்கு ஏதாவது ஒருசொத்து எழுதிவைக்க வேண்டுமென்று விரும்பியபடியாலும் நான் மனப் புரவமாக முடிவு செய்து என் பெயருக்கு சுயார்ஜீதமாய் 10.7.2015-ம் தேதியில் எழுமலை சார்பதிவாளர் அலுவலகத்தில் 1.1035/2015 நம்பர் பத்திரம் மூலம் கிரையம் பெற்றும் என் பெயருக்கு 3/420 நம்பர் வீட்டுவரி தாக்கலாகியும், நான் என் கைவசம் வைத்து அடைந்து அனுபவித்து வருகின்ற இதனடியில் கண்ட ஆர்.சி.சி.சென்ட்ரிங் வீட்டை. நான் உனக்கு இந்த தான செட்டில் மெண்ட் பத்திரத்தின் மூலம் எழுதிக் கொடுத்து பாத்தியப்படுத்தி வைத்திருக்கிற படியால் இதனடியில் கண்ட ரூபாய்.5,00,000/- இந்த ரூபாய் ஐந்துலட்சம் மதிப்பு பெருமானமுள்ள ஆர்.சி.சி.சென்ட்ரிங் வீட்டை நீ நாளது தேதி முதல் சுவாதீனமடைந்து என்றென்றும் சர்வசுதந்திர பாத்தியமாய் தானாதி வினியோக விற்கிரையங்களுக்கு யோக்கியமாய் உன் இடம் போல் ஆண்டனுபவித்துக் கொள்வீர்களாகவும். பட்டா தங்கள் பெயரில் மாற்றிக் கொள்ள இத்துடன் பட்டா மாறுதல் மனுவும் கொடுத்துள்ளேன். இந்த தான செட்டில் மெண்டை இனி நான் மாற்றவோ திருத்தவோ ரத்து செய்யவோ எனக்கு எவ்வித	You are my younger daughter. I am your father. This is our relationship. I, out of my natural love and affection for you and with the intention of providing for your future comfort and support, have voluntarily and with full consent decided to gift and settle a property in my name in your favour. Accordingly, the property standing in my name, purchased by me under Document No.1.1035/2015 dated 10.07.2012 and registered at the Elumalai Sub-Registrar Office, comprising House Tax No.3/420, which I have been holding, possessing, and enjoying since the date of purchase, is hereby dealt with as follows: From the aforesaid property, I hereby, through this Settlement Deed, grant, convey, and transfer in your favour the RCC (cement concrete) house described herein, absolutely and forever, for your use, benefit, and enjoyment. The value of the property so settled is Rs.5,00,000/- (Rupees Five Lakhs only). From the date of this Settlement Deed, you shall hold, own, and enjoy the said RCC house, together with all rights, easements, and appurtenances thereto, absolutely, hereditarily, and with full powers of alienation, without any let or hindrance from me or any person claiming through me. Simultaneously, I have also submitted



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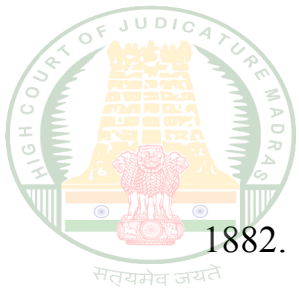
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அதிகாரமும் உரிமையும் இல்லை என்று நான் முழுமனதுடனும் சுயநினைவுடனும் எழுதிக் கொடுத்த தானசெட்டில் மெண்டபத்திரம் இதுவே ஆகும்.	the necessary application for transfer of patta (title) in your name. <u>I hereby declare that I shall have no manner of right, title, interest, claim, or authority whatsoever to cancel, revoke, modify, or alter this Settlement Deed in any way from this day onwards.</u> This Settlement Deed is executed by me of my own free will and volition, in full consciousness and sound mind.
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74. The underlined portion clarifies that after the execution of the Settlement Deed, the sixth respondent shall have no claim or lien over the said property.

75. Since the Settlement Deed dated 30.11.2015 executed by the sixth respondent in favour of the petitioner contains no stipulation of any condition, it does not *prima facie* warrant invocation of the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

76. In fact, where a gift is complete and the donor has done all in his/her power to give effect to it, it is irrevocable, except in the circumstances mentioned in Section 126 of the Transfer of Property Act,



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1882. Section 126 of the said Act also makes it clear that a Gift Deed which provides that the gift is revocable, wholly or in part, at the mere will of the donor, is void to that extent. This aspect has not been noticed by the Courts. A gift deed at best can contain a clause for maintenance of the donor.

77. For the sake of clarity, Section 126 of the Transfer of Property Act, 1882 is reproduced below:

126. When gift may be suspended or revoked.—

The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

Illustrations

(a) A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and



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his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.

(b) A gives a lakh of rupees to B, reserving to himself, with B's assent, the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds goods as to Rs. 90,000, but is void as to Rs. 10,000, which continue to belong to A.

78. Under Section 126 of the Transfer of Property Act, 1882, a gift can be revoked and/or suspended only under the following circumstances:-

- i. where the donor and donee agree that on the happening of any specified event which does not depend on the will of the donor, a gift shall be suspended or revoked;
- ii. A gift may be rescinded in any of the cases if it were a contract except **for want or failure of consideration**;
- iii. A gift can be also revoked on the ground of coercion, fraud, misrepresentation or undue influence, if it were a contract (except want or failure of consideration).

79. The situation is explained best in Illustrations (a) to Section 126 of the Transfer of Property Act, 1882.

80. Under three circumstances extracted above i.e., (i) where there is an agreement between the donor and the donee that on the happening of any specified event which does not depend on the will of the donor, the



gift will be suspended or revoked; (ii) where the gift being in the nature of a contract is void on grounds other than want or failure of consideration; and (iii) where there is coercion, fraud, misrepresentation, or undue influence, if the gift is in the nature of a contract (except for want or failure of consideration), the gift can be revoked, suspended, or rescinded.

81. The expression ‘gift’ is defined in Section 122 of the Transfer of Property Act, 1882. The expression ‘settlement’ is defined in Section 2(24) of the Indian Stamp Act, 1899. Both the definitions are extracted hereunder for the purpose of clarity:-

<i>Gift</i>	<i>Settlement</i>
Section 122 of the Transfer of Property Act, 1882	Section 2(24) of the Indian Stamp Act, 1899
122. “Gift” defined.- “Gift” is the transfer of certain existing moveable or immovable property made voluntarily and without consideration, <u>by one person, called the donor, to another, called the donee</u>, and accepted by or on behalf of the donee. Acceptance when to be made.- Such acceptance must be made during the lifetime of the donor and while he is still capable of giving. If the donee dies before acceptance, the gift is void.	2. Definitions. - In this Act, unless there is something repugnant in the subject or context, - (1) (24) “Settlement”. - “settlement” means any non-testamentary disposition, in writing, of moveable or immovable property made - (a) in consideration of marriage, (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person



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dependent on him, or
(c) for any religious or charitable purpose:

and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration trust or otherwise, the terms of any such disposition.

82. There is an element of ‘gift’ in every ‘settlement’. However, there is a subtle difference between ‘gift’ and ‘settlement’. In the case of a ‘settlement’, there is an element of consideration, which need necessarily not be in monetary terms.

83. The definition of “settlement” in Section 2(24) of the Indian Stamp Act, 1899 can be understood as follows:-

Settlement is non-testamentary disposition, in writing, of movable or immovable property made for the following purposes:

(a)	(b)	(c)
in consideration of marriage	i. for the purpose of distributing property of the settler among his family,	for any religious or charitable purpose



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	ii. for the purpose of distributing property of the settler among those for whom he desires to provide, and iii. for the purpose of providing for some person dependent on him	
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84. The definition of 'settlement' in Section 2(24) of the Indian Stamp Act, 1899 includes an agreement in writing to make such a disposition and where any such disposition has not been made in writing, any instrument recording, whether by way of declaration trust or otherwise, the terms of any such disposition is also a 'settlement'.

85. Recently, the Hon'ble Supreme Court in ***N.P.Saseendran Vs. N.P.Ponnamma and others***, 2025 SCC OnLine SC 626 has also explained the difference between 'gift' and 'settlement' in paragraph 11.3. It is reproduced below:-

“Interplay between Gift and Settlement

11.3. As we have already seen, the primary difference between the **Gift** and the **Settlement** is the existence of consideration in the settlement. Consideration is



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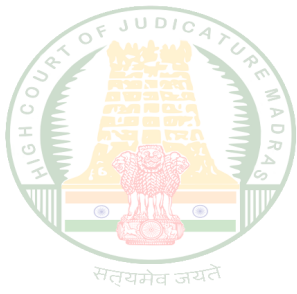
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*nothing but the quid pro quo, that each party to a contract is to perform or render a part of their obligation under the contract. In view of the fact that a gift is a voluntary disposition, it is essentially not an agreement and hence, the element of consideration is taken away from it. **Settlement on the other hand is always coupled with consideration as it is mostly executed in favour of a family member.** The gift or settlement of an immovable property has to be registered as per Section 17 of the Registration Act. The conditions regarding acceptance, reservation of life interest and restriction on revocation are applicable to both “gift and settlement”. The vesting of the right also takes place in praesenti in both the cases. Therefore, there is an element of gift in every settlement. ...”*

86. Recently, the Hon'ble Supreme Court in another case in ***Ramachandra Reddy (Dead) thr. lrs. and others Vs. Ramulu Ammal (Dead) thr. lrs.***, 2024 SCC OnLine SC 3301, has held as under:-

*“15.4 What flows from the above-cited judgments as also provisions of law, is that ‘**consideration**’ need not always be in monetary terms. It can be in other forms as well. In the present case, it is seen that the transfer of property in favour of Govindammal was in recognition of the fact that she had been taking care of the transferors and would continue to do so while also using the same to carry out charitable work. Although the deed stands reproduced supra, for immediate recollection the relevant extract is once again reproduced hereinbelow:*

“...execute this Settlement deed that you are the only daughter of Bagi Reddi and that we do not have any



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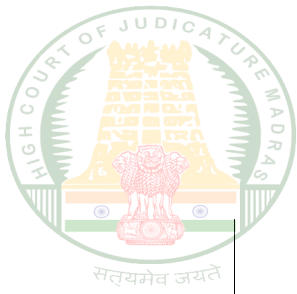
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wife or children or legal heirs and you happened to be the daughter of our elder brother Chenga Reddi and that since we do not have any wife or children and you happened to have looked after us very well till now and that herein after you will look after our food and shelter needs and in the belief that you would do all the charitable work.”

15.5 In that view of the matter, the High Court has erred in taking such a constricted view of ‘consideration’, especially taking note of the fact that this settlement was between the members of a family.”

87. The law on the subject has been settled. Difference between 'gift' and 'settlement' has been summarised succinctly in a discussion on the website 'www.restthecase.com'. I have partly modified the summation for the present case as follows:-

<i>Factor</i>	<i>Gift</i>	<i>Settlement</i>
Subject matter	Both movable and immovable	Both movable and immovable
Consideration	No monetary or other consideration; purely voluntary and gratuitous	No monetary consideration; May involve conditions or future interests, often based on love, affection, or moral obligation.
Transferee	Any person	Any person, but often being a family member
Revocability	Generally irrevocable once accepted and registered,	



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	except under section 126 of TP Act, 1882. Not unilaterally revocable.	
	Revocable under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, where there is a express condition to maintain the doner as per the decision of the Hon'ble Supreme Court in <i>Urmila Dixit Vs. Sunil Sharan Dixit and others</i> , (2025) 2 SCC 787.	Revocable under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, where there is a express condition to maintain the doner as per the decision of the Hon'ble Supreme Court in <i>Urmila Dixit Vs. Sunil Sharan Dixit and others</i> , (2025) 2 SCC 787.
Registration	Mandatory registration for immovable property under Section 17 of the Registration Act, 1908	Compulsory registration under the Registration Act, 1908 . for immovable property as well.
Legal Intent	Transfer is intended as a gratuitous gift with no expectation of return.	Structured asset planning, succession arrangements, or dispute avoidance within families.
Effect on Ownership	Complete and absolute transfer; the donor relinquishes all rights.	Ownership can be divided , e.g., a life estate for one beneficiary, the rest for others.
Acceptance	Must be accepted by the donee during the donor's lifetime and still donor is capable of giving. If donee dies before acceptance the gift becomes invalid.	Acceptance may be required, but terms may specify timing and conditions of acceptance.

88. Thus, as mentioned above, there is a subtle difference between 'gift *simpliciter*' and 'settlement'. The definition of 'settlement' in Section

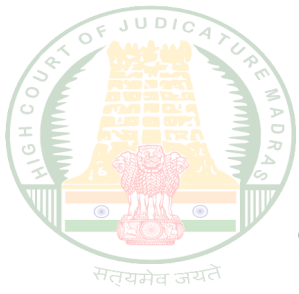


2(24) of the Indian Stamp Act, 1899 makes it clear that it is a non-testamentary deposition in writing of movable or immovable property. As per the definition, it can be in consideration of marriage. It can also be for the purpose of distributing property of the settlor among his/her family.

89. Normally, in the case of Settlement Deed, the settlor has surplus property and therefore decides to settle the property in favour of the settlee or where the settlor wants to avoid uncertainty which is normally associated with a “Will”, which is a form of testamentary disposition of property insofar as the creation of the interest in favour of the legatee.

90. A settlement deed is also executed to distribute properties among those for whom the settlor desires to provide or for the benefit of some persons who are dependent on him.

91. There are no indications that the 6th Respondent was endowed with any surplus property to make a gift *simpliciter* or settle the property for any of the purposes stipulated in the definition of 'settlement' in Section 2(24) of the Indian Stamp Act, 1899.



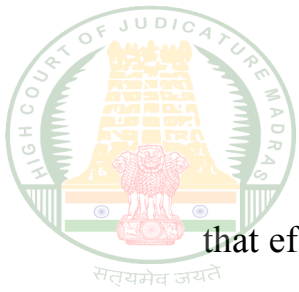
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92. This aspect has to be considered. This has not been considered in any of the decisions of the Courts rendered so far in the context of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Courts including the Hon'ble Supreme Court have treated 'gift' and 'settlement' on par with each other without reference to subtle distinction between two as indicated above.

93. It has to be also emphasised that the scope of the operation of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is wide. It not only deals with a "gift" *simpliciter* coupled with an 'obligation' but also with other forms of transfer, as the expression used in Section 23 of the Act is "by way of gift" or "otherwise".

94. The Hon'ble Supreme Court in ***Sudesh Chhikara v. Ramti Devi and Another***, 2022 SCC Online SC 1684, dealt with a gift deed in which there was no condition requiring the donee to look after the senior citizen after execution of the gift deed.

95. Referring to Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Hon'ble Supreme Court held



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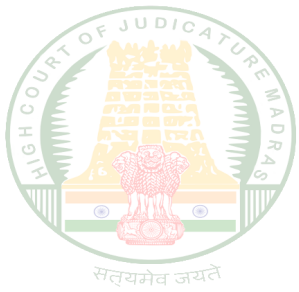
that effecting a transfer subject to a condition of providing basic amenities and basic physical needs to the transferor—senior citizen is a sine qua non for the applicability of sub-section (1) of Section 23.

96. In Paragraph No. 13 in ***Sudesh Chhikara v. Ramti Devi*** (cited *supra*), the Hon'ble Supreme Court made an observation as under:-

'14. 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 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.'

97. The above case in ***Sudesh Chhikara v. Ramti Devi*** (cited *supra*) dealt with the gift deed.

98. The Three Judges Bench of the Hon'ble Supreme Court of India in ***S.Vanitha v. Commr., Bengaluru.***, (2021) 15 SCC 730, elaborately considered the legislative scheme, rights of residence, safeguarding against domestic violence, etc.



WEB COPY 99. In para 23 to 25 of the Judgment, the Hon'ble Supreme Court considered the distinction between sub-sections (1) and (2) of Section 23.

Paragraphs 23 to 25 from ***S.Vanitha v. Commr., Bengaluru.***, (cited *supra*) are extracted as under:-

23. On the other hand, sub-section (2) of Section 23 envisages a situation where a senior citizen has a right to receive maintenance out of an estate. Where such a right exists, the right of maintenance can be enforced where the estate or a portion of it, is transferred against a transferor who has notice of the right; or if the transfer is gratuitous. The right however cannot be enforced against a transferee for consideration and without notice of the right. Now, sub-section (1) of Section 23 envisages a situation where the transfer of property is by the senior citizen. This is evident from the language of sub-section (1), namely, “where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property...”. On the other hand, sub-section (2) of Section 23 does not confine itself to a transfer by a senior citizen, unlike sub-section (1). Sub-section (2) uses the expression “such estate or part thereof is transferred”. Where a senior citizen has a right to receive maintenance out of the estate and any part of it is transferred, sub-section (2) permits the enforcement of the right to receive maintenance out of the estate against a transferee with notice or against a gratuitous transferee. Sub-section (2), in other words, may cover a situation where the transfer of the estate (in which a senior citizen has a right to maintenance) is by a third party, in which event, the provision provides the right to enforce the claim of maintenance against such



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transferee (other than those transferees for consideration or without notice of the pre-existing right). Arguably, the language of sub-section (2) is broad enough to also cover a situation where the transfer is by the senior citizen, in which event the transferee with notice of the right; or a gratuitous transferee, can be made subject to the enforcement of the right against the transferred estate.

24. Another distinction between sub-section (1) and sub-section (2) of Section 23 must also be noticed. Under sub-section (1), where a transfer has been made by a senior citizen subject to the condition that the transferee will provide for basic amenities or physical needs of the transferor and if there is a failure of the transferee to fulfil the condition, two consequences follow : (i) the transfer of property shall be deemed to have been made by fraud or coercion or under undue influence; and (ii) the transfer shall, at the option of the transferor, be declared to be void by the Tribunal. The deeming consequence which is provided for in sub-section (1) is not incorporated in sub-section (2). Sub-section (2), in contradistinction, stipulates that the right to receive maintenance can be enforced against a gratuitous transferee or a transferee with notice of the pre-existing right of a citizen to receive maintenance out of an estate notwithstanding who is the transferee of the estate. In keeping with the salutary public purpose underlying the enactment of the legislation, the expression “transfer” would include not only the absolute transfer of property but also transfer of a right or interest in the property. This would also be in consonance with the provisions of Section 2(f) which defines the expression “property” to include “rights or interests in such property”. The expression “transfer” not having been defined specifically by the legislation, it must receive an interpretation which would advance the beneficent object and purpose of its provisions. Sub-section (2) of Section 23 speaks of the enforcement of



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the “right to receive maintenance” which is more comprehensive in its nature, than merely enforcing an order for maintenance passed under Section 9 of the Act.

25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a “right to receive maintenance out of an estate” and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after advertent to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the



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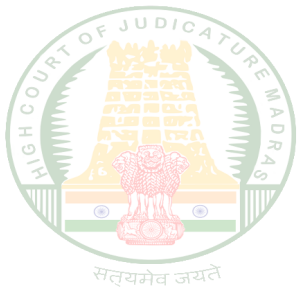


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house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner.

100. This Court in **Mohd. Dayan v. Collector**, 2023 SCC Online Mad 6071 considered the scope of the Senior Citizens Act observed as under. Relevant portion of the Judgement is extracted hereunder:-

‘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 “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



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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 Radhamani case, 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 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 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,



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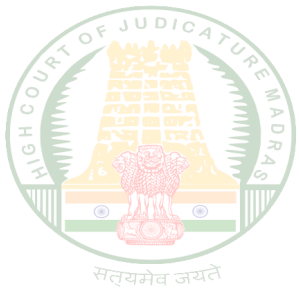


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then the provisions of the Act, is to be pressed into service to safeguard the security and dignity of senior citizen. Therefore, the purposive interpretation of the provisions are of paramount importance and Section 23 of the Act, cannot be mis-utilised 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 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.’”

101. In ***Promil Tomar v. State of Haryana***, 2014 SCC Online P&H 3251 the Punjab and Haryana High Court 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. Relevant paragraph from ***Promil Tomar v. State of Haryana*** (cited *supra*) is extracted hereunder:-

“19. “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 need not be a gift only but it could be any transfer within the meaning of the 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



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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.”

102. In ***Sunita Bhasin v. State of NCT on Delhi***, 2018 SCC Online Del 13664, it was 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.

103. When a gift is made, there cannot be any consideration. It has to be made voluntarily and acceptance has to take place during the lifetime of the donor, as is evident from the definition in Section 122 of the Transfer of Property Act, 1882.

104. Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 merely adds another facet, which is absent in

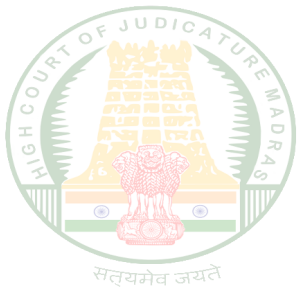


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Section 126 of the Transfer of Property Act, 1882. By a deeming provision, such a transfer is void at the option of the transferor. Thus, there is a slight overlap where the gift is a contract and is coupled with an obligation, as contemplated under Section 126 of the Transfer of Property Act, 1882.

105. 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. Otherwise, the settlor would have executed a gift deed.

106. Unlike in the case of a 'gift' *simpliciter*, where there is no expectation and no consideration, a gift has merely to satisfy the requirements of Section 122 of the Transfer of Property Act, 1882. On the other hand, a 'settlement' under Section 2(24) of the Indian Stamp Act, 1899 contemplates a reciprocal obligation. It is implicit in a 'settlement' under Section 2(24) of the Indian Stamp Act, 1899 that it is for the purpose of distributing the property of the settlor among his family or those for whom he desires to provide or for the purpose of providing for some person dependent on him.



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107. As mentioned above, there is a subtle and distinct distinction between a “Settlement Deed” and a “Gift Deed”. The obligation to maintain the settlor is implicit in a Settlement Deed, in view of the distinction between a ‘Settlement Deed’ and a ‘Gift Deed’.

108. Since there is a subtle distinction between a “Settlement Deed” and a “Gift Deed”, the stamp duty payable under the provisions of the Indian Stamp Act, 1899 also differs.

109. In the case of a “Gift Deed”, the stamp duty that is payable is the same as that of a conveyance, i.e., it is treated on par with a sale. Whereas, in the case of a “Settlement Deed”, stamp duty is payable at concessional rate.

110. For the sake of clarity, the stamp duty payable on a Gift Deed and the stamp duty payable on a Settlement Deed, as per Schedule I to the Indian Stamp Act, 1899, are reproduced below:

SCHEDULE I

STAMP DUTY ON INSTRUMENTS (See Section 3)

(Corrected upto Tamil Nadu Act 31 of 2004
came into force on 16.12.2004)



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S.No.

Description of Instrument

Proper Stamp Duty

33

Gift- Instrument of, not being a Settlement (No.58) or Will or Transfer (No.62)

The same duty as a Conveyance (No.23) for a market value equal to the market value of the property which is the subject matter of gift.

58

Settlement-

One rupee for every Rs. 100 or par thereof of the market value of the property which is under settlement:

(a)

instrument of (including a deed of a dower)-

(i) if the instrument of settlement is in favour of a member or members of a family;

Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twenty rupees.

Explanation.-

For the purpose of this Article, the word “family” means father, mother, husband, wife, son, daughter, grandchild, brother, or sister. In the case of any one whose personal law permits adoption, “father” shall include an adoptive father, “mother” an adoptive mother, “son” an adopted son and “daughter” an adopted daughter.

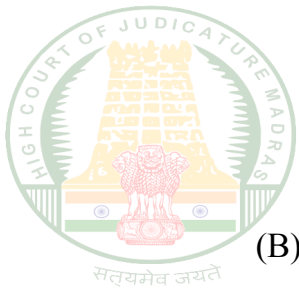
(ii)

in any other case-

(A)

of immovable property situated within the Chennai Metropolitan Planning Area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirapalli and the City of Tirunelveli.

Thirteen rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of settlement



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- (B) of immovable Property situated in other areas; Twelve rupees for every Rs.100 or part thereof of the market value of the property which is the subject matter of settlement.
- (C) of any other property Seven Rupees for every Rs. 100 or part thereof of the market value of the property which is the subject matter of settlement.

Exemption.- Deed of dower executed on the occasion of a marriage between Muhammadans

- (b) Revocation of - The same duty as Bottomry Bond (No.16) for a sum equal to the amount or value of the property concerned as set forth in the instrument of Revocation but not exceeding on thousand rupees

111. That apart, a deed of 'settlement' need not expressly stipulate that it is being executed with a reciprocal obligation to maintain a person dependent of the settlor or the settlor himself or herself, as a deed of 'settlement' is executed in the form of member of a family to take care of the person specified in the definition of 'settlement' in Section 2(24) of the Indian Stamp Act, 1899.

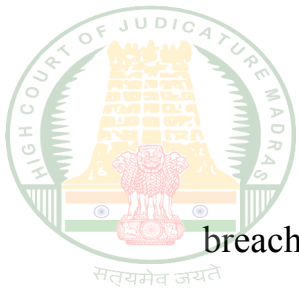


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112. Execution of a Settlement Deed implies an implicit obligation on the part of the settlee to maintain the settlor or such other persons as contemplated in the definition of 'Settlement Deed' in Section 2(24) of the Indian Stamp Act, 1899.

113. The underlying reason for settling a property is for the purpose of maintaining either the settlor himself or herself or a dependent of such a settlor. This is the definition of 'settlement' in Section 2(24) of the Indian Stamp Act, 1899. If the settlor has no other means for his or her own maintenance after a settlement is made, the failure to maintain such senior citizen would attract the sting under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, even in the absence of a clause to maintain the settlor(s) during his/her lifetime or their lifetime.

114. However, in the case of a Gift Deed, a clause can be incorporated whereby an obligation can be cast on the donee to maintain the donor or any person on behalf of the donor. In case of failure on the part of the donee, the Gift Deed cannot be ordinarily cancelled under the scheme of the provisions of the Transfer of Property Act, 1882. However,



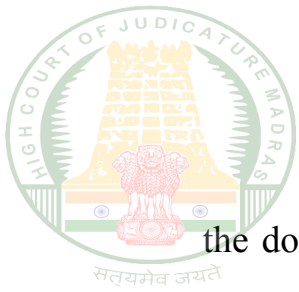
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breach of the obligation cast under a gift deed can warrant cancellation of the gift deed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, at the option of the donor.

115. Therefore, the Impugned Order dated 25.10.2023 canceling the Settlement Deed dated 30.11.2015 does not warrant interference. Therefore, this Writ Petition is liable to be dismissed.

116. As far as the contention of the Petitioner that in order to discharge the surcharge proceedings faced by the 6th Respondent, being an employee of the Mallapuram Agricultural Cooperative Society, the property was settled in favour of the Petitioner on 30.11.2015 and that the said property was thereafter mortgaged to obtain a loan of Rs.7,50,000/- and the loan entire amount was paid to the 6th Respondent partly through bank transfer and partly in cash is concerned, it was open for the Petitioner to recover the amount paid to the 6th Respondent by instituting appropriate proceedings, if the petitioner is so advised.

117. As far as the question of comparing the signatures is concerned, this Court can compare the signatures of the 6th Respondent in



the documents produced before this Court in the light of the decision of

the Hon'ble Supreme Court in **Thiruvengadam Pillai Vs.**

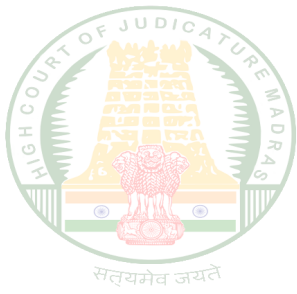
Navaneethammal and others, (2008) 4 SCC 530, wherein, the Hon'ble

Supreme Court held as under:-

“15.1. In State v. Pali Ram [(1979) 2 SCC 158 : 1979 SCC (Cri) 389] this Court held that a court does not exceed its power under Section 73 if it compares the disputed writing with the admitted writing of the party so as to reach its own conclusion. But this Court cautioned: (SCC p. 168, para 30)

“30. ... Although there is no legal bar to the Judge using his own eyes to compare the disputed writing with the admitted writing, even without the aid of the evidence of any handwriting expert, the Judge should, as a matter of prudence and caution, hesitate to base his finding with regard to the identity of a handwriting which forms the sheet anchor of the prosecution case against a person accused of an offence, solely on comparison made by himself. It is therefore, not advisable that a Judge should take upon himself the task of comparing the admitted writing with the disputed one to find out whether the two agree with each other; and the prudent course is to obtain the opinion and assistance of an expert.”

The caution was reiterated in O. Bharathan v. K. Sudhakaran [(1996) 2 SCC 704] . Again in Ajit Savant Majagvai v. State of Karnataka [(1997) 7 SCC 110 : 1997 SCC (Cri) 992] referring to Section 73 of the Evidence Act, this Court held: (SCC p. 122, paras 37-38)



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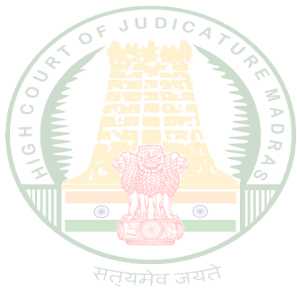
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“37. ... The section does not specify by whom the comparison shall be made. However, looking to the other provisions of the Act, it is clear that such comparison may either be made by a handwriting expert under Section 45 or by anyone familiar with the handwriting of the person concerned as provided by Section 47 or by the Court itself.

38. As a matter of extreme caution and judicial sobriety, the Court should not normally take upon itself the responsibility of comparing the disputed signature with that of the admitted signature or handwriting and in the event of the slightest doubt, leave the matter to the wisdom of experts. But this does not mean that the Court has not the power to compare the disputed signature with the admitted signature as this power is clearly available under Section 73 of the Act.”

15.2. In *Murari Lal v. State of M.P.* [(1980) 1 SCC 704 : 1980 SCC (Cri) 330] this Court indicated the circumstances in which the court may itself compare disputed and admitted writings thus: (SCC p. 712, para 12)

“12. The argument that the court should not venture to compare writings itself, as it would thereby assume to itself the role of an expert is entirely without force. Section 73 of the Evidence Act expressly enables the court to compare disputed writings with admitted or proved writings to ascertain whether a writing is that of the person by whom it purports to have been written. If it is hazardous to do so, as sometimes said, we are afraid it is one of the hazards to which judge and litigant must expose themselves whenever it becomes necessary. There may be cases where both sides call experts and two voices of science are heard. There may be cases where neither side calls an expert,



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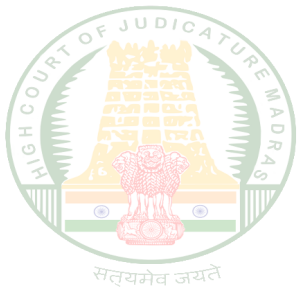


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being ill-able to afford him. In all such cases, it becomes the plain duty of the court to compare the writings and come to its own conclusion. The duty cannot be avoided by recourse to the statement that the court is no expert. Where there are expert opinions, they will aid the court. Where there is none, the court will have to seek guidance from some authoritative textbook and the court's own experience and knowledge. But discharge it must, its plain duty, with or without expert, with or without other evidence.”

*The decision in **Murari Lal** [(1997) 7 SCC 110 : 1997 SCC (Cri) 992] was followed in **Lalit Popli v. Canara Bank** [(2003) 3 SCC 583 : 2003 SCC (L&S) 353] .*

16. While there is no doubt that court can compare the disputed handwriting/signature/finger impression with the admitted handwriting/signature/finger impression, such comparison by court without the assistance of any expert, has always been considered to be hazardous and risky. When it is said that there is no bar to a court to compare the disputed finger impression with the admitted finger impression, it goes without saying that it can record an opinion or finding on such comparison, only after an analysis of the characteristics of the admitted finger impression and after verifying whether the same characteristics are found in the disputed finger impression. The comparison of the two thumb impressions cannot be casual or by a mere glance. Further, a finding in the judgment that there appeared to be no marked differences between the admitted thumb impression and disputed thumb impression, without anything more, cannot be accepted as a valid finding that the disputed signature is of the person who has put the admitted thumb impression. Where the court finds that the disputed finger impression and admitted thumb



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impression are clear and where the court is in a position to identify the characteristics of fingerprints, the court may record a finding on comparison, even in the absence of an expert's opinion. But where the disputed thumb impression is smudgy, vague or very light, the court should not hazard a guess by a casual perusal."

118. The Hon'ble Supreme Court in ***Murari Lal Vs. State of Madhya Pradesh***, (1980) 1 SCC 704 held as under:

*"12. The argument that the court should not venture to compare writings itself, as it would thereby assume to itself the role of an expert is entirely without force. Section 73 of the Evidence Act expressly enables the court to compare disputed writings with admitted or proved writings to ascertain whether a writing is that of the person by whom it purports to have been written. If it is hazardous to do so, as sometimes said, we are afraid it is one of the hazards to which Judge and litigant must expose themselves whenever it becomes necessary. There may be cases where both sides call experts and two [Vide Correction slip No. F. 3/79 (Ed.J) dt. 21-8-80] voices of science are heard. There may be cases where neither side calls an expert, being ill able to afford him. **In all such cases, it becomes the plain duty of the court to compare the writings and come to its own conclusion. The duty cannot be avoided by recourse to the statement that the court is no expert. Where there are expert opinions, they will aid the court. Where there is none, the court will have to seek guidance from some authoritative textbook and the court's own experience and knowledge. But discharge it must, its plain duty, with or without expert, with or without other evidence. We may mention that Shashi Kumar v. Subodh Kumar [AIR***



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1967 SC 1326 : 1967 Cri LJ 1197] and Fakhruddin v. State of M.P. [AIR 1967 SC 1326 : 1967 Cri LJ 1197] were cases where the Court itself compared the writings.”

119. This Court in ***N.Senthil Prasad Vs. R.Anbu Selvi*** vide Order dated 20.11.2018 rendered in C.R.P(MD)No.1981 of 2018 has however held as under:-

*11. Under Section 73 of the Indian Evidence Act, the Court itself can undertake comparison of signature / handwriting of disputed document. **The opinion of an Expert will be only a supporting material and cannot be treated as conclusive one.** Ultimately, it is for the Court to come to a conclusion as to the genuinity and otherwise of the signatures. If the Court is capable of forming of such an opinion based on the oral and documentary evidence before it and in the exercise of Section 73 of the Act, the necessity to send the document for expert's opinion may not arise. Here, in this case, it is seen that the Court below has not exercised Section 73 of the Act and not dealt with the merits of the case and therefore, this Court is inclined to remand the matter back to the Court below.*

120. The signatures of the 6th Respondent in the Deed of Adoption dated 15.07.1997, whereby the Petitioner's elder sister, Dhanalakshmi, was adopted and in the Sale Deed dated 31.01.2007, by which the Petitioner's biological father, Periyasamy, purchased the land where the



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6th Respondent signed as a witness are almost similar. They are scanned

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<i>Signature of the sixth respondent in Deed of Adoption dated 15.07.1997</i>	<i>Signature of the sixth respondent in Sale Deed dated 31.01.2007</i>
	

121. *Prima facie*, the signatures of the 6th Respondent in the Sale Deed dated 10.07.2015 by virtue of which the 6th Respondent has purchased the land from the Petitioner's biological mother, Nallakudi and the Settlement Deed dated 30.11.2015 and unregistered Mortgage Deed dated 11.08.2017, which is said to have been executed by the 6th Respondent in favour of the Petitioner for a sum of Rs.10,67,000/- are in variance with each other. They are scanned and reproduced below:

<i>Signature of the sixth respondent in Sale Deed dated 10.07.2015</i>	<i>Signature of the sixth respondent in Settlement Deed dated 30.11.2015</i>	<i>Signature of the sixth respondent in Unregistered Mortgage Deed dated 11.08.2017</i>
		



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122. The signature in the unregistered Mortgage Deed dated 11.08.2017 *prima facie* appear to be forged and fabricated. In case, the Petitioner wants to rely on the same, it is for the Petitioner to establish that that the signature in the unregistered Mortgage Deed dated 11.08.2017 is that of the 6th Respondent. The onus lies on the Petitioner to discharge the burden of proof.

123. In the result, this Writ Petition is accordingly dismissed with the above observation. Liberty is granted to the Petitioner to recover the amount said to have been paid by the Petitioner to the 6th Respondent in accordance with law. No costs. Consequently, the connected Miscellaneous Petitions are closed.

14.08.2025

JEN

Index : Yes

Internet : Yes

Neutral Citation : Yes

Speaking Order

To

1.The Revenue Divisional Officer cum Executive Magistrate,
The Authority under the Maintenance and
Welfare of Parents and Senior Citizens Act,
Usilampatti, Madurai.



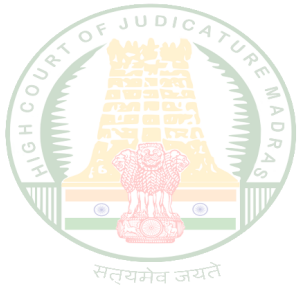
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2.The Sub-Registrar,
Elumalai, Madurai.

3.The Deputy Superintendent of Police,
Peraiyur, Madurai.

4.The Inspector of Police,
Elumalai Police Station, Madurai.

5.The Tahsildar,
Peraiyur Taluk, Madurai.



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C.SARAVANAN, J.

JEN

Pre-Delivery Order made
in
W.P.(MD) No.26973 of 2023
and
W.M.P.(MD) Nos.23166 & 23167 of 2023

14.08.2025