



W.P.(MD) No.29642 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2025

CORAM:

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.29642 of 2025
and W.M.P(MD).No.22937 of 2025

B.Janaki

... Petitioner

-VS-

- 1.The District Collector cum
Appellate Authority,
The Maintenance and Welfare of Parents
and Senior Citizens Appellate Tribunal,
Dindigul.
- 2.The Revenue Divisional Officer cum
Executive Magistrate,
The Authority under the Maintenance and
Welfare of Parents and Senior Citizens Act,
Dindigul.
- 3.The Sub-Registrar Joint No.2,
Dindigul.

4.A.Senthilkumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Pa.Mu.No.2929687/2025/C1 dated 23.03.2025 and quash the same and consequently directed the first respondent to cancel the



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settlement deeds in document Nos.3499 of 2010 and 7769 of 2020 dated 24.05.2010 and 29.12.2020 registered on the file of the third respondent office.

For Petitioner : Mr.B.Azhagesh

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader (for R1 to R3)

ORDER

This writ petition has been filed to quash the impugned order of the first respondent in Pa.Mu.No.2929687/2025/C1 dated 23.03.2025 and consequential direction to the first respondent to cancel the settlement deeds in document Nos. 3499 of 2010 and 7769 of 2020 dated 24.05.2010 and 29.12.2020 registered on the file of the third respondent office.

2. The petitioner has executed a settlement deed in favour of the fourth respondent, her son, vide Doc Nos.3499 of 2010 and 7769 of 2020 dated 24.05.2010 and 29.12.2020 respectively on the file of the third respondent in respect of petition mentioned property on the belief that her son will take care of



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her till her lifetime. However, the fourth respondent did not take care of the petitioner. Hence, the petitioner approached the second respondent by filing a petition under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to cancel the aforesaid settlement deeds. The second respondent vide his proceedings dated 24.12.2024 directed the fourth respondent to deposit a sum of Rs.6,000/- before 10th day of every month to the petitioner's bank account. Against which, the petitioner preferred an appeal before the first respondent, who in turn has disposed of the appeal modifying the award passed by the second respondent that the fourth respondent should accommodate one house to the petitioner for her lifetime on the ground that there is no condition in the settlement deed. Aggrieved over the same, the present writ petition has been filed.

3. Heard the learned counsel on either side.

4. A perusal of the records would show that the petitioner has executed two settlement deeds in favour of her son, fourth respondent herein, in the year 2010 and 2020. Both the settlement deeds does not contain any condition that the



settlement deeds subject to the condition that the petitioner would take care of by settlee, her son. It is also seen that pursuant to the settlement deeds, the revenue records have also been mutated in the name of her son.

5. Section 23 of the Act, 2007, provides the circumstances, under which, a transfer of property would become void. Section 23(1) would read as follows:

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

1. 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.

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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6. Therefore, the Act can be invoked only when the transfer document contains a condition that the transferee shall take care of the transferor. The Hon'ble Supreme Court in the case of ***Sudesh Chhikara Vs., Ramti Devi and another***, after considering the scope of Section 23 of the Act, had observed as follows:

“12. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression “by way of gift or otherwise”. For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled:

a. The transfer must have been made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor; and

b. the transferee refuses or fails to provide such amenities and physical needs to the transferor.

If both the aforesaid conditions are satisfied, by a legal fiction, the transfer shall be deemed to have been made by fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of the transferor and the Maintenance Tribunal gets jurisdiction to declare the transfer as void.....

14. Careful perusal of the petition under Section 23 filed by respondent no. 1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of respondent no. 1) would provide the basic amenities and basic physical needs to respondent no.1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the



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impugned judgment of the Tribunal, immediately after a reply was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor – senior citizen is sine qua non for applicability of sub-section (1) of [Section 23](#). In the present case, as stated earlier, it is not even pleaded by respondent no.1 that the release deed was executed subject to such a condition. “

7. Relying upon the above judgment in the case of ***Urmila Dixit Vs., Sunil***

Sharan Dixit and others, the Hon'ble Supreme Court has held as follows:

“.....24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the competency of the Tribunal to hand over possession of the property. In S. Vanitha (supra), this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under [Section 23](#), cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.

25. Another observation of the High Court that must be clarified, is [Section 23](#) being a standalone provision of the Act. In our considered view, the relief available to senior citizens under [Section 23](#) is intrinsically linked with the statement of objects and reasons of the Act, that elderly citizens of our country, in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee.....”



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8. In the light of the above legal pronouncement, order passed by the first respondent cannot be found fault with and the same is confirmed. Accordingly, this Writ Petition is dismissed. The respondents 1 and 2 shall direct the fourth respondent to pay a monthly maintenance of Rs.6,000/- to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

23.10.2025

NCC : Yes/No

Index : Yes/No

Rmk

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P.T.ASHA, J.

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