



W.P.(MD)No.30432 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.10.2025

CORAM:

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.30432 of 2025

and

W.M.P(MD)No.23647 and 23648 of 2025

B.Janaki

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Dindigul.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Dindigul,
Dindigul District.
3. Senthilkumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 1st respondent in Pa. Mu. No.2929687/2025/C1, dated 23.03.2025, and the the 2nd respondents proceedings in Na.Ka.No.3138/2024/A1, dated 24.12.2024 and quash the same and consequently direct the 2nd respondent to cancel



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the settlement deed, dated 24.05.2010, vide Document No. 3499 of 2010, and subsequent settlement deed, Document No. 7769 of 2020, dated 29.12.2020, and a rectification deed, Document No. 172 of 2021, dated 08.01.2021, on the file of Joint No.2 Sub Registrar Office, Dindigul executed by the petitioner to 3rd respondent.

For Petitioner : Mr.V.R.Shanmuganathan
For R1 and R2 : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The above writ petition has been filed for the following relief:-

“Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 1st respondent in Pa. Mu. No.2929687/2025/C1, dated 23.03.2025, and the the 2nd respondents proceedings in Na.Ka.No.3138/2024/A1, dated 24.12.2024 and quash the same and consequently direct the 2nd respondent to cancel the settlement deed, dated 24.05.2010, vide Document No. 3499 of 2010, and subsequent settlement deed, Document No. 7769 of 2020, dated 29.12.2020, and a rectification deed, Document No. 172 of 2021, dated 08.01.2021, on the file of Joint No.2 Sub Registrar Office, Dindigul executed by the petitioner to 3rd respondent.”



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2. Mrs.D.Farjana Ghoushia, learned Special government Pleader takes notice on behalf of the respondents 1 and 2.

3. By consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself. Since no adverse orders are to be passed against the 3rd respondent, orders are being passed without issuing notice to him.

4. The petitioner has executed a settlement deed in favour of the 3rd respondent, her son, vide Doc No.3499 of 2010 dated 24.05.2010, Doc No.7769 of 2020 dated 29.12.2020 and Rectification Deed vide Doc.No. 172 of 2021 dated 08.01.2021 on the belief that her son will take care of her till her lifetime. However, the 3rd respondent did not take care of the petitioner. Hence, the petitioner approached the 2nd 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 2nd respondent vide his proceedings dated 24.12.2024 directed the 3rd respondent to deposit a sum of Rs.6,000/- before the 10th day of every month to the petitioner's bank account. Against which, the petitioner



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preferred an appeal before the 1st respondent, who in turn has disposed of the appeal modifying the award passed by the 2nd respondent that the 3rd respondent should accommodate the petitioner is one house for her lifetime and rejected the prayer for cancellation of the settlement deeds on the ground that there is no condition in the settlement deed imposing duty on the 3rd respondent to take care of the petitioner. Aggrieved over the same, the present writ petition has been filed by the petitioner. The 3rd respondent has however not challenged the order of the authorities below.

5. Heard the learned counsel on either side.

6. The 3rd respondent not having challenged the orders of the 1st and 2nd respondent the directions issued by them has attained finality as against the petitioner.

7. A perusal of the records would show that the petitioner has executed two settlement deeds in favour of her son, 3rd 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



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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.

8. 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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9. 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 impugned



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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.”

10. 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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11. In the light of the above legal pronouncement, order passed by the 1st respondent cannot be found fault with and the same is confirmed. Accordingly, this Writ Petition is dismissed and the 3rd respondent shall pay the monthly maintenance of Rs.6,000/- to the petitioner as directed by the 2nd respondent. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.10.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To

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Collectorate,
Dindigul.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Dindigul,
Dindigul District.



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