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W.A.No.2101 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WA No.2101 of 2024
and CMP No.14789 of 2024

M.M. Ramesh
S/o.M.S.Manikavasagam,
No.7331, TNHB Kurunjikudiyeruppu,
Ayyapakkam, Chennai - 600 077.

Appellant(s)

Vs

1. M.S. Manikavasagam
S/o.Late.M.Samisa,
No.9/407, SIDCO Nagar,
50th Street, Villivakkam,
Chennai - 600 049.
2. The District Collector
No.62, Rajaji Salai,
M.Singaravelar Maaligai,
4th Floor, Chennai Collectorate,
Chennai - 600 001.

Respondent(s)

PRAYER: Appeal under Clause 15 of the Letters Patent to set aside the order of the learned Single Judge dated 14.06.2024 passed in WP No. 19363 of 2022 and thus render justice.



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For Appellant(s): Mr. G.Anandakumar
for M/s. Thamizharasi Law Firm

For Respondent(s): Mr. P.Dhayanand
for R1

Mr. A.Edwin Prabakar
State Government Pleader
for R2

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Questioning the legality and validity of the order dated 14.6.2024 passed by the learned Single Judge upholding the cancellation of settlement deed dated 28.1.2015 executed by the first respondent/father in favour of the appellant/son, the present appeal is filed.

2.1. Succinctly put, the facts run thus: The appellant is the son of the first respondent. The first respondent executed a settlement deed dated 23.6.2004 in favour of the appellant on his own volition. It is stated that the appellant paid a sum of



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Rs.1,50,000/- to his brothers towards relinquishment of their rights as per the instructions of the first respondent.

2.2. It is stated that, all of a sudden, the appellant received summons from the Civil Court pertaining to civil suit [O.S.No.3033 of 2016] filed by the first respondent seeking to declare the settlement deed dated 23.6.2004 as null and void and to declare the revocation of settlement deed dated 28.1.2015 executed by the first respondent as valid. The said suit was dismissed vide judgment and decree dated 20.10.2017 and the same was upheld on appeal by the III Additional Judge, City Civil Court, Chennai, vide judgment and decree dated 22.1.2019 passed in A.S.No.112 of 2018.

2.3. It is stated that thereafter the first respondent filed a complaint dated 21.10.2019 before the Revenue Divisional Officer. The said complaint was dismissed. The further appeal preferred by the first respondent, was dismissed by the second respondent/ District Collector, vide order dated 27.4.2022.



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2.4. Assailing the said order dated 27.4.2022 passed by the second respondent, the first respondent filed W.P.No.19363 of 2022 and the same was allowed vide order dated 14.6.2024 by setting aside the order passed by the second respondent and upholding the cancellation of settlement deed dated 28.1.2015. The appellant herein was directed to handover the vacant possession of the subject property to the first respondent forthwith. Hence, the present appeal.

3.1. Learned counsel for the appellant submitted that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came into force on 29.09.2008, whereas the settlement deed has been executed in favour of the appellant by the first respondent in the year 2004 and, therefore, the complaint filed by the first respondent before the statutory authority itself is not maintainable and the said vital fact was not considered by the learned Single Judge.



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3.2. It is further submitted that the appellant paid Rs.1,50,000/- to his brothers for relinquishment of their rights as per the instructions of the first respondent and the settlement deed has been executed by the first respondent without any undue influence and coercion. He hastened to add that, after 11 years, the first respondent sought to cancel the settlement deed and the said challenge was repelled by the civil courts and, therefore, the learned Single Judge ought not to have allowed the claim of the first respondent.

3.3. It is also submitted that the first respondent is receiving around a sum of Rs.40,000/- towards monthly pension and has never approached the appellant seeking maintenance or shelter, but has all of a sudden sought to cancel the settlement deed with the sole intention of getting the possession of the property under the settlement deed. Such an attempt ought to have been thwarted by the learned Single Judge.



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4. Per contra, learned counsel for the first respondent reiterated the submissions made before the learned Single Judge and sought for dismissal of the appeal.

5. We have heard learned counsel for the parties and perused the order passed by the learned Single Judge.

6. At the outset, let us consider whether the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are applicable to the settlement deed dated 23.6.2004.

7. To appreciate the aforesaid issue, it is apposite to refer to Section 23 of the Act, which reads thus:

"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*



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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-section (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."

[emphasis supplied]

8. A Full Bench of the Kerala High Court in the case of *Subhashini v. District Collector*¹, while dealing with an identical issue, refused to give retrospective effect to Section 23 of the Act and has held that Section 23 of the Act was intended to be only

¹ (2020) 5 KLT 533 (FB)



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prospective in nature. The relevant paragraphs of the said judgment are reproduced hereunder:

"51. Very pertinent is the fact that S.23(1) is prospective and applies only to agreements executed after the enactment came into force. S.23 applies only to transfers after the commencement of the Act. This further fortifies our interpretation that the provision insists on there being an express condition, written as part of the recitals, in the deed. If it were otherwise and the circumstances which led to the execution or a reservation clause could be relied on to infer or imply such a condition having regulated the execution, it would have been made applicable to deeds of all times, executed by senior citizens of a like nature. The measures of publicity as spoken of in S.21, under Chapter 5 is also intended at informing every senior citizen about the speedy remedy provided for maintenance as also revocation of a gratuitous transfer and to alert them of the condition to be specified; which has to be a part of the recitals of the document.

52. We conclude by answering the reference, that the condition as required under S.23(1) for provision



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of basic amenities and basic physical needs to a senior citizen has to be expressly stated in the document of transfer, which transfer can only be one by way of gift or which partakes the character of gift or a similar gratuitous transfer. It is the jurisdictional fact, which the Tribunal will have to look into before invoking S.23(1) and proceeding on a summary enquiry. We answer the reference agreeing with the decision in W.A. No. 2012 of 2012 dated 28.11.2012 (Malukutty Ponnarassery v. P. Rajan Ponnarassery). We find Shabeen Martin v. Muriel, 2016 (5) KHC 603, and Sundari v. Revenue Divisional Officer, 2018 KHC 4655, to be wrongly decided. We approve Radhamani v. State of Kerala 2016 (1) KHC 9 which had a recital in the document akin to that required under S.23(1)."

[emphasis supplied]

9. A Division Bench of the Delhi High Court in *Charanjit Singh Ahluwalia vs. Union of India*², concurred with the aforesaid decision of the Full Bench of the Kerala High Court and observed thus:

*"13. This Court is in agreement with the view expressed by the High Court of Kerala. **The Act did not intend to disturb the rights of the donee***

² MANU/DE/3164/2023



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which has already been created and vested in him. The Legislature is conscious of the fact that vested rights of the donor are not to be given a retrospective operation despite the fact that the object of the Act is to provide for measures for welfare of senior citizens. This is not a case of casus omissus and this Court while exercising its jurisdiction under Article 226 of the Constitution of India cannot make the provision what the Legislature did not intend it to be."

10. Challenge to the aforesaid decision of the Delhi High Court was repelled by the Supreme Court vide order dated 26.7.2024 passed in SLP (C) No.16395 of 2024.

11. From the law enunciated in the decisions, referred supra, it is luculent that the Act shall be applicable only to transfer of property after the commencement of the Act and it cannot be given retrospective effect.

12. In the case on hand, the Revenue Divisional Officer, vide order dated 19.7.2021, dismissed the complaint of the first



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respondent on the ground that he is receiving family pension and the civil cases filed by him were dismissed and further observed that the first respondent is entitled to receive maintenance from all his other four children, even if the appellant herein had not maintained him. The said order was affirmed by the second respondent/District Collector.

13. Even from the observations made by the learned Single Judge in the order impugned, it is clear that the settlement deed was executed by the first respondent with love and affection and as future security to the appellant.

14. However, this court cannot lose sight of the fact that children owe an obligation to maintain their parents. Such obligation of the children to take care of parents is statutory and not only subject to being in possession of their property.

15. At this stage, it is relevant to refer to the earlier order passed in this appeal on 26.2.2026 which reads thus:



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"2. In this case, the interim order is operating since long. Therefore, hearing of the appeal is expedited.

3. The interim order dated 16.07.2024 passed by this Court is modified in the manner that if any application in writing is submitted before this Court by the first respondent-father seeking residential accommodation in the same house where the appellant is residing, the appellant shall provide accommodation in one room of the house in which the appellant is residing."

16. In the light of the aforesaid observation, we only make it clear that if the first respondent approaches the appellant seeking residential accommodation in the same house where the appellant is residing, the appellant shall provide accommodation of one room to the first appellant. This direction is issued taking into consideration the pious duty of every child towards his parent and this order shall not in any way disturb the findings rendered by the civil courts both in the suit and the appeal.



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17. In the result, the writ appeal is allowed and the order passed by the learned Single Judge is set aside and the order passed by the authorities under the Act is modified to the extent indicated above. There shall be no order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
23.03.2026

Index : Yes
Neutral Citation : Yes
sasi

To:

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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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