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W.P.(MD).No.17792 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17792 of 2022

and

W.M.P(MD) Nos.12984 of 2022 and 12432 of 2023

K.Poongothai

Vs

...Petitioner

1. The District Collector,
Office of the District Collector,
Sivagangai District.
2. The Chairman,
Maintenance Tribunal under
Parents and Senior Citizen
Maintenance and Welfare Act/
Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Devakottai Revenue Division,
Sivagangai District.

3. Tmt.Karu. Kalaiyarasi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records connected with the order in மு.மு.பி1/15614/2022, dated 19.07.2022 passed by the first respondent confirming the order passed by the second respondent மு.மு.ஆ.ஆ1/6079/2021, dated 21.04.2022 and quash the same.



W.P.(MD).No.17792 of 2022

For Petitioner : Mr.S.Malaikani

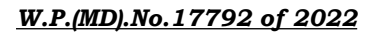
For R1 and R2 : Mrs.D.Farjana Ghoushia
Special Government Pleader

For R3 : Mr.K.Raja

ORDER

The present writ petition has been filed challenging the order passed by the first respondent dated 19.07.2022, confirming the order passed by the second respondent on 21.04.2022 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

2. The third respondent in the writ petition, who is the sister of the writ petitioner, had purchased the property in dispute in her name on 18.09.2002. She had executed a settlement deed in favour of the writ petitioner under registered document on 17.10.2014 in document No.2879/2014. The third respondent has preferred a complaint to the first respondent on 06.09.2021 for cancellation of the settlement deed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It was forwarded to the second respondent. The second respondent, by his order dated 21.04.2022 had cancelled the said documents invoking Section 23 (1) of the said Act. The



3. According to the learned counsel appearing for the petitioner, there is no clause in the settlement deed reserving the right to cancel or revoke the settlement. No condition was imposed in the settlement deed that the petitioner should take care of her sister. In such circumstances, the third respondent does not have any power or authority to approach the respondents 2 invoking Section 23 of the Act.

4. Per contra, the learned counsel appearing for the third respondent had relied upon the decision of the Hon'ble Supreme Court in **2025 INSC 20 reported in (Urmila Dixit Vs.Sunil Sharan Dixit and others)** and Division Bench of this Court in **W.A.No.3582 of 2024, dated 06.03.2025 between Mala Vs.District Arbitrator and five others**, in support of his contentions.



W.P.(MD).No.17792 of 2022

WEB COPY

5. Heard the learned counsel on either side and perused the materials available on record.

6. The third respondent has executed a settlement deed in favour of the writ petitioner on 17.10.2014. A perusal of the said documents reveal that in Page No.5 of the document it has been specifically recited that the third respondent does not reserve any right to revoke or cancel the said documents.

7. The judgment of the Hon'ble Supreme Court reported in **(2024) 14 SCC 225 (Sudesh Chhikara Vs. Ramti Devi and another)** in paragraph No. 14 it is held as follows:

14. 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



W.P.(MD).No.17792 of 2022

(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.

8. In the judgment of the Hon'ble Supreme Court reported in **(2025) 2 SCC 787 (Urmila Dixit Vs.Sunil Sharan Dixit and others)** in paragraph No. 21 it is held as follows:

21. Furthermore, in Sudesh for attracting the application of Section 23(1), the following essentials were expounded:

(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.



W.P.(MD).No.17792 of 2022

WEB COPY

9. The judgment of our High Court in **2025-2 Writ L.R.662 (M.Vasanthi Vs.The Revenue Divisional Officer and another)** in paragraph No.17.5, has held as follows:

(17.5) The 3rd respondent had made a petition before the 2nd respondent to cancel the settlement deeds executed by him in favour of his late son as his late son and his wife, the petitioner herein had failed to take care and maintain himself and his wife though they had got the documents executed on this promise. Under Section 23, if a senior citizen has transferred property to any third party and in the transfer deed, a condition has been imposed upon the transferee to maintain the transferer, both in terms of providing his basic amenities as well as his basic needs and such transferee fails to comply with the conditions, then in such a case, the transferer can have the transfer deed declared void. This is on the premise that the failure to comply with the conditions would imply that the document has been got executed by fraud / coercion / undue influence. [Section 23(1)] Likewise, where a senior citizen receives maintenance from out of an estate and such estate or a part thereof is transferred, the right to receive



W.P.(MD).No.17792 of 2022

the maintenance can be enforced against the transferee if the transferee has notice of the right. Such a right can be enforced only in a case where a transfer is gratuitous, but not in the case where the transfer is for consideration and without notice of the right [Section 23(2)]. Section 23(2) further provides that where a senior citizen is incapable of enforcing the rights under Sub Sections (1) and (2), then action can be taken on his behalf by any of the organisations that have been set out in the explanation to Section 5 (1) of the Act. In the light of the language of Section 23 (1), it is clear that in order to declare a transfer to be void, the transfer deed should contain a specific recital that the transfer is subject to a condition that the transferee would take care of the transferer and provide his basic amenities as well as physical needs. This position has been declared by the judgment of the Hon-ble Supreme Court reported in 2024 (14) SCC 225 : 2022 SCC Online SC 1684 in Sudesh Chhikara Vs. Ramti Devi & another. The learned Judges had expounded the following essentials for the application of Section 23 (1) of the Act which is set out herein below :

“(a) The transfer must have been made



W.P.(MD).No.17792 of 2022

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.”

10. In fact, as held by the Hon'ble Supreme Court, two conditions have to be satisfied for invoking Section 23 of the said Act. One of the condition is that the transfer must have been made subject to the condition that the transferee shall provide basic amenities and basic physical needs to the transferor and second condition is that the transferee refuses or fails to provide such amenities any physical needs to the transferor. Even if one of the condition is not satisfied, a senior citizen would not be entitled to invoke Section 23 of the above said Act.

11. In view of the judgment of the Hon'ble Supreme Court and the decision of this Court, it is clear that unless specific conditions are provided in the settlement deed reserving the right of the settlor to revoke or cancel the document, a senior citizen cannot approach the authority under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.



W.P.(MD).No.17792 of 2022

WEB COPY

12. In the present case, admittedly, one of the condition namely, the recital in the document, with regard to the power of the settler to cancel the document is absent and the transfer is not subject to any condition. In such circumstances, the respondents 1 and 2 will not have any jurisdiction whatsoever to entertain an application under Section 23 of the said Act.

13. In view of the above said facts, the order impugned in the writ petition is set aside and this Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

24.02.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.17792 of 2022

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W.P.(MD).No.17792 of 2022

R.VIJAYAKUMAR,J.

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W.P(MD)No.17792 of 2022

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