

W.P.(MD)No.6912 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6912 of 2025

and

W.M.P.(MD)Nos.5188 & 5189 of 2025

Sahaya Anna Abram

... Petitioner

-VS-

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.The Sub-Registrar,
Edalakudi Sub-Registrar Office,
Kanyakumari District.

4.George

... Respondents



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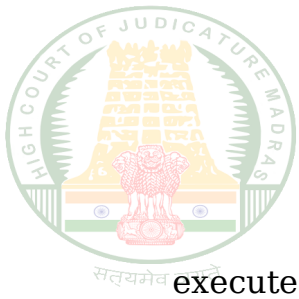
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in the proceedings in Moo.Mu.C3/2308736/2024 dated 26.11.2024 and to quash the same as illegal and consequently directing the respondents 1 to 3 to delete the entries made in the encumbrance certificate regarding the Settlement Deed bearing Document No.4912 of 2023 dated 26.10.2023 made based on the impugned proceedings of the first respondent made in his proceedings in Moo.Mu.C3/2308736/2024 dated 26.11.2024.

For Petitioner : Mr.D.Srinivasaragavan
For Respondents 1&2 : Mr.R.Ramasamy,
Counsel for the State of Tamil Nadu
For Respondent No.4 : Mr.B.Vinothkumar

ORDER

Challenging the proceedings of the first respondent in Moo.Mu.C3/2308736/2024 dated 26.11.2024, the present Writ Petition has been filed.

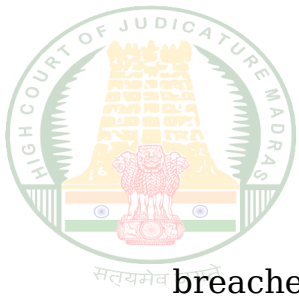
2.The case of the petitioner is that the fourth respondent is the petitioner's father and out of love and affection the fourth respondent



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executed a settlement deed bearing Document No.4912 of 2023 dated 26.10.2023 in favour of the petitioner. Thereafter, at the instigation of the petitioner's sister, the fourth respondent initiated proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, before the second respondent. Pursuant thereto, the second respondent in and by proceedings dated 18.07.2024, ordered maintenance of Rs.4,000/- to be paid by the petitioner to the fourth respondent. Aggrieved by the same, the fourth respondent preferred an appeal before the first respondent. The first respondent, in and by the proceedings dated 26.11.2024, cancelled the settlement deed executed by the fourth respondent in favour of the petitioner. Aggrieved over the same, the present Writ Petition has been filed.

3.Learned counsel for the petitioner submitted that the issue involved in the present Writ Petition is no longer *res integra*. The settlement deed dated 26.10.2023, executed by the petitioner's father in favour of the petitioner is an absolute and irrevocable settlement. He further submitted that Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be invoked only when the transfer is subject to a condition that the transferee shall provide basic amenities and physical needs to the transferor and such condition is

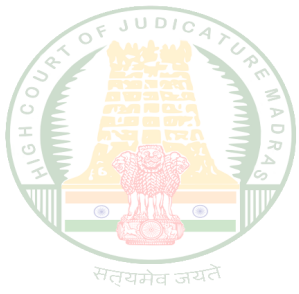


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breached. In the absence of any such condition in the settlement deed, the authorities under the Act have no jurisdiction to cancel the settlement deed. Further, learned Counsel submitted that during the pendency of the Writ Petition, the property which was settled in favour of the petitioner was occupied by the fourth respondent.

4.Learned Counsel for the petitioner placed reliance upon the decision of the Hon'ble Full Bench in the case of ***Sasikala Vs. Revenue Divisional Officer and another reported in 2022 SCC online Mad 4343***, wherein, it has been categorically held that in the absence of a condition incorporated in the deed, the power under Section 23(1) cannot be exercised and further held that when a settlement deed is executed, the same cannot be cancelled unilaterally.

5.Learned Government Counsel appearing for the official respondents submitted that the impugned order came to be passed on the complaint of the senior citizen alleging failure of maintenance by the petitioner. However, he fairly submitted that the issue is governed by the judgment of the Hon'ble Full Bench of this Court. Hence, this Court may issue appropriate directions in the above regard.



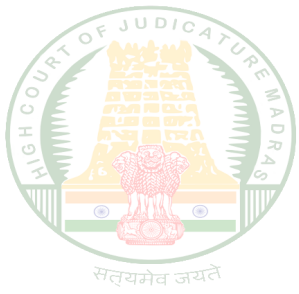
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6.Heard the learned counsel for the petitioner and the learned Government Counsel appearing for the official respondents and perused the materials available on record.

7.Admittedly, the petitioner is the son of the fourth respondent. The issue involved in the present Writ Petition is no longer *res integra*, in view of the judgment of the Hon'ble Full Bench of this Court in **Sasikala's** case, as referred to supra, wherein it has been held that the power under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can be exercised only if the transfer of property has been made subject to the condition that the transferee shall provide basic amenities and physical needs to the transferor and such condition has been violated. In the absence of such a condition in the deed of transfer, the authorities functioning under the Act have no jurisdiction to annul or cancel the transfer. The relevant portion with regard to unilateral cancellation is extracted hereunder;

“46.The writ petition in W.P. (MD) No. 6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007. The gift deed executed by the second respondent in favour of the

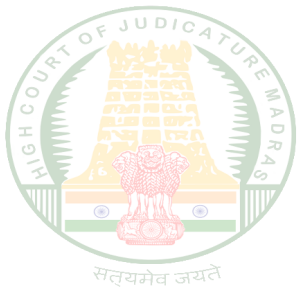


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writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. The second respondent has specifically stated that he has no right to revoke the settlement deed. From the recitals, the settlement does not attract Section 126 of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. **In other words, the gift deed is not subject to any condition or terms that the transferor shall provide the basic amenities and basic physical needs to the second respondent. In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under Section 23 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007.** Therefore, the order impugned is liable to be quashed. Even though we agree that the writ petition can be allowed, this Court is unable to decide the writ petition in this batch where question referred to us is different. Hence, the writ petition in W.P. (MD) No. 6889 of 2020 is de-linked and the Registry is directed to list the matter before the appropriate Bench.” [Emphasis supplied]



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8.In the case on hand, a perusal of the settlement deed dated 26.10.2023, does not disclose any condition requiring the petitioner to maintain the executant as as pre-condition for transfer of the property. Therefore, the essential requirement for involving Section 23(1) of the Act is absent. Consequently, the first and second respondents could not have exercised the power of cancellation under the Act.

9.In view of the above settled legal position, the impugned proceedings of the first respondent in in Moo.Mu.C3/2308736/2024 dated 26.11.2024, is liable to be set aside.

10.Accordingly, the Writ Petition stands allowed and the impugned order of the first respondent dated 26.11.2024, is hereby quashed. However, since the fourth respondent is in possession of the subject property, the petitioner is directed not to disturb the possession of the fourth respondent till their life time and after his life time, the petitioner is entitled to alienate the property. Further, the petitioner is directed to pay a sum of Rs.5,000/- as monthly maintenance to the fourth respondent, on or before 7th day of every English Calender month. The fourth respondent is also at liberty to approach the competent Civil Court for cancellation of the



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settlement deed executed in favour of the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

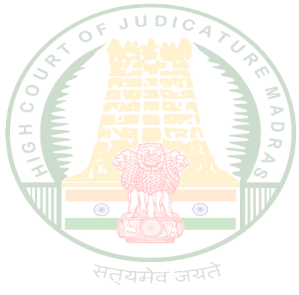
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NCC : Yes / No

Index : Yes / No

Internet: Yes / No

MR



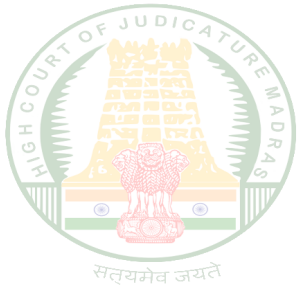
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M.DHANDAPANI, J.

MR

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