



W.P(MD)No.24253 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.24253 of 2023
and W.M.P.(MD).Nos.20425 and 20427 of 2023

1.Rajalakshmi

2.G.Vimal

... Petitioners

Vs

1.The Appellate Tribunal - Cum -The District Collector,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Sub Registrar,
Devaram Sub Registrar Office,
Theni District.

4.Rajalakshmanan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call the records pertaining to the order dated 20.09.2023 passed by the first respondent in Se.Mu.Na.Ka.No.1025/A1/2023 whereby reversing the order dated 02.05.2023 passed by the second respondent vide proceedings in Na.Ka.No.1996/2022/A2 and quash the same as illegal.

For Petitioners : Mr.S.Rajasekar

For R-1 to R-3 : Mr.R.Ramasamy, Counsel for State

For R-4 : Mr.A.Arputharaj

ORDER

Aggrieved by the cancellation order dated 20.09.2023 passed by the first respondent, whereby the registered gift settlement deeds executed by the fourth respondent in favour of the petitioners were cancelled, the petitioners have filed the present writ petition challenging the said order.

2. The learned counsel appearing for the petitioners would submit that the petitioners are the daughter and grandson of the fourth respondent. The fourth respondent executed a registered gift settlement deeds dated 27.01.2021 and 21.01.2022 in favour of the petitioners in respect of the subject property.



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Subsequently, the fourth respondent made an application before the second respondent seeking cancellation of the said gift settlement deed. The second respondent, by the impugned order dated 02.05.2023, observed that the petitioners had failed to take care of the fourth respondent and consequently directed to pay a sum of Rs.8,000/- per month towards monthly maintenance. Challenging the same, the fourth respondent preferred an appeal before the first respondent. The first respondent cancelled the gift settlement deed in favour of the petitioners on 20.09.2023. Challenging the said order, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioners would submit that the authorities under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, have jurisdiction under Section 23 only in respect of transfers by way of gift or settlement, where the transfer is subject to a condition that the transferee shall provide basic amenities and physical needs to the transferor. In the present case, the document in question is a settlement deed without any such conditional clause. Therefore, the provisions of Section 23 of the Act are wholly inapplicable and the first respondent has no jurisdiction to entertain the complaint or direct cancellation of the settlement deed.



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4. Placing reliance upon the decision of the Hon'ble Full Bench in the case of ***Sasikala v. Revenue Divisional Officer and another*** reported in 2022 SCC online Mad 4343, the learned counsel submitted that, it was 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. Therefore, the impugned order dated 20.09.2023 is wholly without jurisdiction and liable to be quashed.

5. The learned Counsel for State appearing for the respondents 1 to 3 would fairly submit that the registered gift settlement deeds dated 27.01.2021 and 21.01.2022 does not contain any specific condition obligating the petitioners to provide basic amenities and physical needs to the fourth respondent. In the absence of such a condition incorporated in the document of transfer, the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, would not be attracted.



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WEB COPY 6. This Court has carefully considered the submissions on either side and perused the materials placed on record.

7. Admittedly, the issue is no longer *res integra*. The Hon'ble Supreme Court in ***Sudesh Chhikara v. Ramti Devi and another***, reported in (2024) 14 SCC 225, has held that the deeming fiction under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, can be invoked only when the transfer is made subject to the condition that the transferee shall provide the basic amenities and physical needs to the transferor and the transferee fails to fulfil such condition. Unless such a condition is expressly incorporated in the document of transfer, the jurisdiction under Section 23 cannot be exercised for declaring the transfer void. The Supreme Court further held that the authorities constituted under the Act cannot assume jurisdiction to annul a transfer in the absence of the statutory requirements contemplated under Section 23.

8. Coming to the facts of the present case, admittedly, the document in question is registered gift settlement deeds and there is no recital therein imposing any obligation upon the petitioners to provide basic amenities and



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physical needs to the fourth respondent. Therefore, the essential requirement for invoking Section 23 of the Act is absent. Consequently, the first respondent had no jurisdiction to direct cancellation of the registered settlement deed by invoking the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Accordingly, the impugned order is liable to be set aside and the same is set aside.

9. Accordingly, the petitioners/daughter and grandson is directed to pay a sum of Rs.8,000/- (Rupees Eight Thousand only) per month towards the maintenance of the fourth respondent. The said amount shall be paid on or before the 7th day of every English calendar month, commencing from the succeeding month.

10. The petitioners are further directed to pay the entire arrears of maintenance calculated at the rate of Rs.8,000/- per month, in terms of the earlier order dated 02.05.2023, within a period of four (4) weeks from the date of receipt of a copy of this order, if the same has not already been paid.



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WEB COPY 11. With the above observation and direction, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

20.07.2026

NCC : Yes / No

Index : Yes / No

TSG

To

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M.DHANDAPANI, J.

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