

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 01-09-2023

ORDERS PRONOUNCED ON 08-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.28190 of 2022

And

WMP No.27489 of 2022

Mohamed Dayan

... Petitioner

Vs.

1.The District Collector,
Tiruppur District.

2.The Executive Magistrate,
And Revenue Divisional Officer,
Tiruppur District.

3.The Sub Registrar Joint-I,
Thiruppur,
Thiruppur District.

4.Shakira Begum

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records in

Oo.Mu.No.1/51475/2022 dated 21.09.2022 on the file of the first respondent and confirming order dated in Na.Ka.3450/2022/E3 dated 12.08.2022 on the file of the second respondent and quash the same.

For Petitioner : Mr.K.Sudhakar

For Respondents-1 to 3 : Mr.T.Venkatesh Kumar,
Special Government Pleader.

For Respondent-4 : Mr.N.Manokaran

ORDER

The relief sought for in the present writ petition is to call for the entire records in Oo.Mu.No.1/51475/2022 dated 21.09.2022 on the file of the first respondent and confirming order dated in Na.Ka.3450/2022/E3 dated 12.08.2022 on the file of the second respondent and quash the same.

FACTS OF THE CASE:

2. The fourth respondent is the mother of the writ petitioner and filed a petition before the second respondent on 08.07.2022 stating that the petitioner is her elder son and she had got two daughters and younger son. Her husband Mr.Batchu is living with bad health condition. The writ

petitioner is living separately after his marriage and her younger son is living away from them due to misunderstanding between the brothers.

3. The husband of the fourth respondent had closed his Garments business during the year 2015 due to business loss. Since her younger son went away, both the fourth respondent and her husband, are living separately. The writ petitioner is now running a Garment Company of his own.

4. The father of the writ petitioner purchased the subject property out of his own self earnings, gold jewels and savings by way of Sale Deed dated 14.08.2003 registered as Document No.4618 of 2003 on the file of the Sub Registrar, Thiruppur. When the fourth respondent decided to partition the subject property among her sons, since her younger son is not having any job to maintain her and her husband and at that time, the petitioner expressed his willingness to purchase the said property and undertake to settle the share amounts to the heirs, within six months. The writ petitioner has given further undertaking that he will take care of his parents and upon believing the words of the petitioner, the fourth

respondent had executed the Settlement Deed dated 20.10.2020 registered as Document No.8690 of 2020. No doubt, the writ petitioner is living in the Ground Floor of the property and the fourth respondent and her husband, are living in the First Floor of the property.

5. After executing the Settlement Deed in favour of the writ petitioner, the petitioner had not maintained the fourth respondent and her husband properly and had not given them the medical treatment as well other basic needs. The fourth respondent has affected by Diabetics, Blood Pressure and other ailments and further suffering on account of old-age. The basic needs have been fulfilled by their daughters. When the fourth respondent was taken treatment in the Hospital six months back, the petitioner refused to take care of his father and at that time, the fourth respondent was in a critical condition, and she was given treatment at the Hospital by her daughter Tmt.Reshma.

6. The fourth respondent had asked the petitioner to pay the amount to the other sharers as undertook by him at the time of execution of the Settlement Deed, otherwise to give back the property again to her,

enabling her to partition the property and give the due share to all her children. But, the writ petitioner refused to do so and treated his parents indiscriminately and asked them to go out from the home.

7. The fourth respondent in her petition had stated that the petitioner is now threatening her to vacate the house and when she vacated the house, the petitioner has disconnected water, electricity connection to the first floor portion and thereby made the fourth respondent and her husband to suffer more. The fourth respondent had stated for about three months medical expenditures crossed lakh of rupees and now the fourth respondent and her aged husband, are not in a position to maintain themselves and in a state of struggle to live.

8. Under those circumstances, the fourth respondent had stated that the petitioner had obtained the property in his favour and after getting settlement in his name, the writ petitioner refused to maintain the fourth respondent and her husband, as assured by him and asking them to vacate the house also and thereby put the fourth respondent and her husband under trouble from leading peaceful life at their old-age.

9. Thus the fourth respondent filed a petition before the second respondent to cancel the Settlement Deed executed in favour of her elder son-writ petitioner and make a way to live at their old-age as per the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [hereinafter referred to as the 'Act', in short].

10. The second respondent conducted an enquiry by affording opportunity to all the parties concerned. The second respondent conducted an enquiry on 10.08.2022 as per the provisions of the Act. The second respondent, ascertaining the facts, passed an order cancelling the Settlement Deed executed by the fourth respondent in favour of the writ petitioner. The writ petitioner preferred an appeal and the said appeal was rejected by the District Collector on the ground that as per Section 16 (1) of the Act, the parents or the senior citizens, if they suffer by an order, shall prefer an appeal. But the petitioner is not falling under the ambit of the appeal provisions contemplated under the Act and therefore, his appeal was rejected. Thus, the petitioner has chosen to file the present writ petition.

11. The learned counsel appearing on behalf of the writ petitioner mainly contended that parents of the writ petitioner hail from Bangalore and they have got two sons and two daughters. The father of the writ petitioner was running a Trade in the name of 'Dhayan Tyre and Traders' in Bangalore. The petitioner states that he started doing small works after coming to Thiruppur and learnt Export Business and thereafter earned and purchased the subject property in his mother's name, who is the fourth respondent in the present writ petition.

12. The petitioner states that he purchased a vacant land in the year 2003 and thereafter constructed a house by borrowing loan from the REPCO Bank. He completed the construction of the house in between the year 2013 and 2018. Thus, the petitioner states that the purchase of vacant land and the construction of house, were made by from and out of his own earnings and by borrowing loan and thus, the fourth respondent is not entitled for the relief as such sought for in the present writ petition.

13. The learned counsel for the petitioner mainly contended that the fourth respondent had executed the Settlement Deed on 20.10.2020 in favour of the writ petitioner without any condition. In the Settlement Deed, father and younger brother of the petitioner, are witnesses and one unregistered Consent Deed also obtained from his sisters as well as his brother on 20.10.2020. At the instigation of the sisters of the petitioner, the fourth respondent had given a complaint before the second respondent for cancellation of Settlement Deed. Though the second respondent called for an enquiry on 12.08.2022, passed an order without conducting any proper enquiry, by cancelling the Settlement Deed. The appeal filed by the petitioner was also rejected.

14. Referring to Sections 4 and 5 of the Act, the petitioner states that he is maintaining his father and mother till date and they are residing in the First Floor of the subject property. The second respondent has failed to consider the scope of Section 23 of the Act. There is no condition imposed in the Settlement Deed and in the absence of any such condition, cancellation of Settlement Deed is in violation of Section 23 of

the Act.

15. The Authorities have failed to consider the purpose and object of the Act, with reference to Sections 2(b), 2k, 4 and 23 of the Act. When the Act do not have sufficient means, then alone the provisions of the Act, needs to be pressed into service.

16. In the present case, no such facts are established and the petitioner is taking care of his parents and thus, cancellation of Settlement Deed through the impugned order, is not in consonance with the object of the Act.

17. In support of the contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court of India in the case of **Sudesh Chhikara vs. Ramti Devi and Another [2022 LiveLaw (SC) 1011]**, wherein in paragraph-14, it has been held as under:-

“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 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.”

18. Relying on the abovesaid judgment, the learned counsel for the petitioner reiterated that the cancellation of Settlement Deed is improper and liable to be set aside.

REPLY BY THE RESPONDENTS:

19. The respondents 1 and 2 relying on the counter-affidavit made a submission that based on the complaint given by the fourth respondent, who is the mother of the writ petitioner, an enquiry was conducted and the writ petitioner had appeared before the second respondent for enquiry on 12.08.2022 and gave his statement.

20. The writ petitioner has stated that he is maintaining his father and mother in good way. The petitioner admitted the fact that his mother had executed a Settlement Deed vide document No.8690 of 2020 in his name. In the said document, his father and brothers had signed with their full consent. His father is living with him in the Ground Floor and his mother is living in the First Floor. He is spending towards food and medical expenditures for them. Due to inducement of his sisters, his mother had given a complaint to cancel the Settlement Deed. The petitioner has assured that he will maintain his parents till their life time.

21. The respondents 1 to 3 have considered the complaint given by the fourth respondent and the statement given by the writ petitioner and found that the petitioner has not maintained his parents and mere statement by the petitioner that he will maintain his parents would be insufficient to comply with the provisions of the Act. In order to safeguard the interest of the Senior Citizens and to protect their life and normal living, the respondents 1 to 3 have cancelled the Settlement Deed, enabling them to get back their property and to lead a normal life and to meet out their medical expenditures.

22. The learned counsel for the fourth respondent strenuously objected the contentions raised on behalf of the petitioner by stating that the first respondent had given a complaint mainly on the allegation that he petitioner failed to maintain the fourth respondent and her husband. The fourth respondent executed the Settlement Deed out of love and affection and with the fond hope that the petitioner will maintain his parents. But the petitioner has failed to honour his commitment and left his parents in lurch. The fourth respondent is now being maintained by her daughter and her

medical expenditures are met out by her daughter, despite the fact that the fourth respondent had settled the subject property in favour of the writ petitioner. The fourth respondent was not in a position to meet out the medical expenditures for her and for her husband, as both of them are suffering with age-old ailments.

23. Under those circumstances, they have preferred an appeal before the second respondent to cancel the Settlement Deed. To protect their life and to meet out their medical expenditures, the second respondent conducted an enquiry and found that the writ petitioner is not maintaining his parents and consequently cancelled the Settlement Deed. The appeal by the writ petitioner is not entertainable in view of Section 16(1) of the Act. Thus, the present writ petition is to be rejected.

JUDGMENTS ON THE SENIOR CITIZENS ACT:

24. A notable judgment on the Senior Citizens Act, was delivered by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of **S.Vanitha vs. Deputy Commissioner, Bengaluru Urban**

and District and Others [(2021) 15 SCC 730], wherein in paragraphs 15 to 25, it has been held as follows:-

“C. Legislative scheme : Senior Citizens Act, 2007

15. The rival submissions will now be analysed.

16. Our analysis of the rival submissions must begin with explaining and interpreting the salient feature of the Senior Citizens Act, 2007 which have a bearing on the present controversy. “Maintenance” is defined in an inclusive manner to incorporate, among other things, provisions for food, clothing, residence, medical assistance and treatment [“2. (b) “maintenance” includes provision for food, clothing, residence and medical attendance and treatment;”] . In defining the expression “property”, the legislation uses broad terminology encompassing “property of any kind” and to include “rights or interests in such property” [“2. (f) “property” means property of any kind, whether movable or immovable, ancestral

or self-acquired, tangible or intangible and includes rights or interests in such property;”] . *Overriding effect is given to the provisions of the enactment by Section 3 [“3. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.”]* . *Besides the definitions which are comprised in Chapter I, Chapter II is titled “Maintenance of Parents and Senior Citizens” while Chapter V is titled “Protection of Life and Property of Senior Citizen”.*

17. The Statement of Objects and Reasons indicates the rationale for the enactment of the law:

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons,

particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.”

18. Briefly reviewed, Section 4 recognises an entitlement of maintenance to inhere in parents and senior citizens. Section 5 lays down the procedure by which an application for maintenance can be made. Section 6 elucidates provisions governing jurisdiction and procedure. Section 7 contains stipulations for the constitution of a Maintenance tribunal. Section 8 envisages a summary procedure

for making an inquiry. Section 11 provides for the enforcement of an order of maintenance.

19. A senior citizen, including a parent, who is unable to maintain themselves from their own earning or out of property owned by them, is entitled to make an application under Section 4(i). A parent or grandparent may make an application against one or more of their children. A childless senior citizen can make an application against a relative specified in Section 2(g). Section 4 recognises a corresponding obligation on the part of the children or relative to maintain a senior citizen, extending to such needs as would enable them to lead a normal life. In the case of a relative, the obligation is if they are in possession of the property of the senior citizen or would inherit property from them. Hence, in the case of the children of a senior citizen, the obligation to maintain a parent is not conditional on being in possession of property of the senior citizen or upon a right of future inheritance

[“4. Maintenance of parents and senior citizens.—(1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under Section 5 in case of—(i) parent or grandparent, against one or more of his children not being a minor;(ii) a childless senior citizen, against such of his relative referred to in clause (g) of Section 2.(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen:Provided

that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.”] .

20. *The procedure to be followed by a Maintenance Tribunal (constituted under Section 7) is of a summary nature as provided in Section 8(1) and with all the powers of a civil court, as provided in Section 8(2) [“8. Summary procedure in case of inquiry.—(1) In holding any inquiry under Section 5, the Tribunal may, subject to any rules that may be prescribed by the State Government in this behalf, follow such summary procedure as it deems fit.(2) The Tribunal shall have all the powers of a civil court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a civil court for all the purposes of Section 195 and Chapter XXVI*

*of the Code of Criminal Procedure, 1973 (2 of 1974).”]. Under sub-section (1) of Section 9, where a senior citizen is not able to maintain himself or herself and the children or relatives, as the case may be, neglect or refuse to maintain them, the Tribunal is empowered to order them to make a monthly allowance at such monthly rate for the maintenance of the senior citizen, as the Tribunal may deem fit [**“9. Order for maintenance.—(1)** If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.”] . The amount of the monthly allowance can be altered inter alia upon a change in circumstances, under Section 10 [**“10. Alteration in allowance.—***

(1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under Section 9, for the maintenance ordered under that section to pay a monthly allowance for the maintenance, the Tribunal may make such alteration, as it thinks fit, in the allowance for the maintenance.

(2) Where it appears to the Tribunal that, in consequence of any decision of a competent civil court, any order made under Section 9 should be cancelled or varied, it shall cancel the order or, as the case may be, vary the same accordingly.”]

21. Of particular relevance to the facts of the case at hand is Chapter V, which enacts provisions for protecting the life and property of a senior citizen. Section 23 proceeds in the following terms:

“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 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.”

22. *Sub-section (1) of Section 23 covers a situation where property has been transferred after the enactment of the legislation by a senior citizen (by gift or otherwise) subject to the condition that the transferee must provide the basic amenities and physical needs to the transferor. In other words, sub-section (1) deals with a situation where the transfer of the property is accompanied by a specific condition to provide for the maintenance and needs of a senior citizen. In such an event, if the transferee fails to provide the maintenance and physical needs, the transfer of the property is deemed to have been vitiated by fraud, coercion or under undue influence. Sub-section (1), in other words, creates a deeming fiction of the law where the transfer of the property is subject to a condition and the condition of providing for maintenance and the basic needs of a senior citizen is not fulfilled by the person upon whom the obligation is imposed. Then, at the option of the transferor, the transfer can be declared as void by the Tribunal.*

23. *On the other hand, sub-section (2) of Section 23 envisages a situation where a senior citizen has a right to receive maintenance out of an estate. Where such a right exists, the right of maintenance can be enforced where the estate or a portion of it, is transferred against a transferor who has notice of the right; or if the transfer is gratuitous. The right however cannot be enforced against a transferee for consideration and without notice of the right. Now, sub-section (1) of Section 23 envisages a situation where the transfer of property is by the senior citizen. This is evident from the language of sub-section (1), namely, “where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property...”. On the other hand, sub-section (2) of Section 23 does not confine itself to a transfer by a senior citizen, unlike sub-section (1). Sub-section (2) uses the expression “such estate or part thereof is transferred”. Where a senior citizen has a right to receive maintenance out of the*

estate and any part of it is transferred, sub-section (2) permits the enforcement of the right to receive maintenance out of the estate against a transferee with notice or against a gratuitous transferee. Sub-section (2), in other words, may cover a situation where the transfer of the estate (in which a senior citizen has a right to maintenance) is by a third party, in which event, the provision provides the right to enforce the claim of maintenance against such transferee (other than those transferees for consideration or without notice of the pre-existing right). Arguably, the language of sub-section (2) is broad enough to also cover a situation where the transfer is by the senior citizen, in which event the transferee with notice of the right; or a gratuitous transferee, can be made subject to the enforcement of the right against the transferred estate.

24. Another distinction between sub-section (1) and sub-section (2) of Section 23 must also be noticed. Under sub-section (1), where a transfer has been made by a senior

citizen subject to the condition that the transferee will provide for basic amenities or physical needs of the transferor and if there is a failure of the transferee to fulfil the condition, two consequences follow : (i) the transfer of property shall be deemed to have been made by fraud or coercion or under undue influence; and (ii) the transfer shall, at the option of the transferor, be declared to be void by the Tribunal. The deeming consequence which is provided for in sub-section (1) is not incorporated in sub-section (2). Sub-section (2), in contradistinction, stipulates that the right to receive maintenance can be enforced against a gratuitous transferee or a transferee with notice of the pre-existing right of a citizen to receive maintenance out of an estate notwithstanding who is the transferee of the estate. In keeping with the salutary public purpose underlying the enactment of the legislation, the expression “transfer” would include not only the absolute transfer of property but also transfer of a right or interest in the

property. This would also be in consonance with the provisions of Section 2(f) which defines the expression “property” to include “rights or interests in such property”. The expression “transfer” not having been defined specifically by the legislation, it must receive an interpretation which would advance the beneficial object and purpose of its provisions. Sub-section (2) of Section 23 speaks of the enforcement of the “right to receive maintenance” which is more comprehensive in its nature, than merely enforcing an order for maintenance passed under Section 9 of the Act.

25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a “right to receive maintenance out of an estate” and the enforcement of that right. In supporting the submission, they have

referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after advertng to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He

had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner.”

25. In the above judgment, the Apex Court, elaborated the scope of Section 23(1) of the Act and the statement of objects and reasons for the enactment of Senior Citizens Act. In order to provide speedy remedy to the Senior Citizens, the Act provides provisions to ensure their normal life during old-age.

26. In the case of **M.Venugopal vs. The District Magistrate-cum-District Collector [(2014) 5 CTC 162 (Mad)]**, wherein the learned Single Judge of this Court, considered the scope of the Act as under:-

“1. Indian society has a long cherished tradition to respect and protect the elders. It is the pious obligation of the siblings to maintain their Parents and grandparents. The great saint Tamil poet “Avvaiyar” said “Annaiyum Pithavum Munnari Deivam” which means mother and father are the first God known to the children. Until few decades, in the past, these traditions, heritage and moral values were taught at the Schools as part of curriculum. Since, the children learnt these invaluable tenets, in their childhood, it was not

required to remind them of their obligation towards the elders, by making any law to respect and protect them. In recent years, under the guise of preparing the younger generation to compete globally in knowledge sharing and employment, we have gradually removed the moral studies from the School curriculum. On the other side of the coin, when the Joint Family system was in prevalence, the grandparents, in order to at-least while away their time, used to tell moral stories to their grandchildren. "Patti Kathaigal" (Grandmother's stories) played a major role to imbibe good qualities in the children. Now joint family system has also slowly faded away. As a result, the children hardly have the golden opportunity of learning moral values from the elders also. As a consequence, we have witnessed crimes by juvenile delinquents on the increase. Even the Government is forced to amend the Juvenile Justice (Care and Protection) Act to treat the Juveniles on par with adults in respect of certain heinous crimes. Feeling of togetherness has vanished. Love and respect for the elders have diminished. Some, among the younger generation, do also forget to maintain their parents. They are left in the lurch in the

evening of their life. So, the Government had to think of converting the pious obligation to maintain the Parents as a legal obligation. Thus, for the first time in the Code of Criminal Procedure, 1973, provision was made for payment of maintenance to the Parents, who are unable to maintain themselves. Though a claim for maintenance is in the nature of a Civil claim, the said provision was inserted in the Criminal Procedure Code thereby giving jurisdiction to Judicial Magistrates hoping that it would be less expensive and speedy. But in course of time, the hope was belied. The aged Parents continue to suffer. Many of them have to spend their life in old age homes.”

27. In the case of **Radhamani and Others vs. State of Kerala** [2015 SCC OnLine Ker 33530], wherein the Kerala High Court observed as under:-

“7. The Senior Citizens Act, 2007 has a pivotal role in Indian Societal frame work. The Act, in fact, comprehends a scheme of welfare provisions for senior citizens. The Act contemplates right of senior citizens beyond right of maintenance. The word “welfare” has a

significant importance in the context. The welfare is defined under Section 2(k) as follows:-

“2(k) “welfare” means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.”

8. Section 23 of the Senior Citizens Act, 2007 gives right to senior citizens to approach the Tribunal to declare any transfer of property, by way of gift or otherwise, after the commencement of the above Act, as void, in certain circumstances. It stipulates that such transfer must be with the condition that (a) transferee shall provide the basic amenities and basic physical needs to the transferor and (b) such transferee refuses or fails to provide such amenities and physical needs. Therefore, a deed can be declared as void on fulfilling the two conditions enumerated as above, declaring transfer as a fraud or coercion or under undue influence, as the case may be at the option of the transferor.

9. The question in this case is in the absence of specific recital as conditions referred as above in the Settlement Deed, whether Tribunal has a power to declare transfer as void.

10. Section 122 of Transfer of Property Act,

1882 (hereinafter referred for brevity, as 'the T.P. Act') defines "gift" as a transfer of certain existing moveable or immoveable property made voluntarily and without consideration. Section 126 of T.P. Act makes a provision to suspend or revoke the gift on happening of any specified event on which donor and donee may agree. The word 'consideration' in the context of Section 122 of T.P. Act, only refers to monetary consideration and does not include natural love and affection. However, it cannot be revoked on a mere Will of the donor. The gift or Settlement Deed on a promise to look after the donor at the old age is a transaction without any consideration. If such promise and expectation are treated to be a consideration, certainly transaction as a gift will be deemed to be void. Therefore, such conditions forming part of gift deed are also reiterated under Section 23 of the Senior Citizens Act, 2007.

11. Section 23 of the Senior Citizens Act, 2007 does not contemplate that the condition should form part as recital in the deed of transfer. It only refers that there should be a condition for such transfer. This condition can be either express or implied. If there is no express recital in the

deed, the Tribunal has to look around circumstances to find out whether conduct otherwise dispel the intention of donor to revoke. The consideration for executing a gift deed or settlement deed is based on human conduct, caring and conscientious. Transfer admittedly is out of love and affection. Any donor in a gift deed would expect in a natural course of human conduct that donee continues to behave in same manner as behaved before execution of the deed. The love and affection influenced for execution of the deed certainly must be enduring and without any barrier. The human conduct in relation to a particular relation is presumed to exist in all set of circumstances for governing relationship of those individuals. Transferee cannot disown his own action of love and affection after the transfer comes into effect. The transfer itself being based on love and affection, that would form part as a condition of the transaction for future conduct as well. Thus, in the absence of any other circumstances to dispel, it must be presumed that transferor expects continuation of the care and love from the transferee even after execution of the deed in same manner, he was taken care prior to

execution of the deed.

12. It is to be noted that the special scheme in terms of Senior Citizens Act, 2007 could declare certain transfer as void, taking note of the fact that by taking advantage of the emotionally dependent senior citizens, relatives grab the property on the pretext of providing emotional support. Therefore, legislature thought such transaction could be declared as void as the conduct leading to transaction was based on malice or fraud. Therefore, condition referred in Section 23 has to be understood based on the conduct of the transferee and not with reference to the specific stipulation in the deed of transfer. Thus, this Court is of the view that it is not necessary that there should be a specific recital or stipulation as a condition in the transfer of deed itself. This condition mentioned in Section 23 is only referable as a conduct of the transferee, prior to and after execution of the deed of transfer. Thus, challenge based on the ground that there is no reference in the recital of deed that transferee will provide basic amenities and physical needs to the transferor is of no consequence.

13. Under Section 17 of the Indian Contract

Act, 1872, 'fraud' includes a promise made without any intention of performing it. Section 92 of the Evidence Act places a restriction on the admissibility of evidence in variance or in contradiction of the term of a registered document in writing. However, under second proviso to Section 92, the existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. Under third proviso to Section 92, the existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property may be proved. Thus, there is no requirement under law that condition as such should form part of written document. It can be implied from the circumstances of human conduct."

28. In the case of **Premkumar vs. Krishan Kumar Sharma and Others [AIR 2016 P&H 40]**, wherein the Punjab and Haryana High Court in paragraph-12 observed as under:-

"12. Hon'ble Division Bench of this Court in Justice Shanti Sarup Diwan, Chief Justice

(Retired) v. Union Territory, Chandigarh, 2014 (5) R.C.R. (Civil) 656 has examined the scheme of the Act and almost identical issue.

“28. SCHEME OF THE ACT-

In order to appreciate and answer the aforesaid questions in the context of the factual matrix, it is necessary to analyze the relevant provisions of the said Act. The Statement of Objects and Reasons set out that the traditional norms and values of the Indian Society which lay stress on providing care for elderly getting diluted due to the withering of the joint family system, the elders are facing emotional neglect and lack of physical and financial support. Thus, aging has become a major social challenge and despite the provisions of the Code of Criminal Procedure, 1973 for maintenance, it was deemed necessary that there should be simple, inexpensive and speedy provisions to claim maintenance for the parents. The Act is not restricted to only providing maintenance but cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives. One of the major aims was to provide for the institutionalization of a suitable mechanism for

the protection of 'life and property of older persons'.

29. In the case of **Deepak Sharma vs. State of Rajasthan [(2017) 170 AIC 637]**, wherein the High Court of Rajasthan (Jaipur Bench), has observed in paragraphs-4, 9 to 14 as under:-

“4. To borrow the words of Sanjay Kishan Kaul, J. in the judgment rendered in Justice Shanti Sarup Dewan, Chief Justice (Retired) v. Union Territory, Chandigarh, 2014 (14) RCR (Civil) 656, “The filial affections of a father have cost him dearly in the twilight years of his life.”

.. .. .

9. Section 27 of the Act of 2007 specifically states that no civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

10. Section 23(1) of the Act of 2007 specifically state that 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 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. Section 23(2) further states that 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.

11. Having heard the learned counsel for the petitioner, this Court is of the view that the Act of 2007 is not without teeth. To provide speedy redressal of grievance, the Act vests powers in the Tribunal to make any transfer of the property void. The petitioner as per his own averment in the application is unemployed. Nothing has been stated regarding source of income of the petitioner. On 22.1.1999, an agreement to sell and

other papers were executed by Vijay Laxmi Mathur. The petitioner and his wife were not possessed of the funds to pay the sale consideration, noted in the agreement to sell. The respondent no. 3 Hanuman Prasad Sharma has specifically stated that he had purchased the flat for his wife Pushpa Devi Sharma, and possession was handed over to him and the original agreement to sell and other original documents like allotment letters, letter of possession are with Hanuman Prasad Sharma. Thus, it is discernible that the father in old age being not able to move here and there, had asked the seller to execute power of attorney in favour of his son.

12. In the present case, attorney has cheated the person who had provided funds for execution of the agreement to sell. Scope of Section 23 of the Act of 2007 cannot be restricted as the Act of 2007 is beneficial legislation. The scope under Section 23 of the Act of 2007 can be enlarged and the Tribunal can hold an inquiry as to who had provided funds for purchase of flat by way of agreement to sell on 22.1.1999, what was the age of the petitioner on 22.1.1999 and when he was married, what were his resources, what were

the resources of his wife to purchase the flat. In case, the funds were provided by the father and the mother in the year 1999, out of love and affection, the petitioner and his wife cannot become ungrateful to the parents. By extending widest interpretation to Section 23 read with Section 4 of the Act of 2007, this Court is of the view that the Tribunal should have held an inquiry compelling the petitioner and his wife to return sale consideration of the flat to the parents so that they can survive with dignity.

13. However, since parents have not challenged the order passed by the Tribunal, this Court shall rest the matter, where it is.

14. Relief to be granted by the Tribunal in a beneficial legislation enacted for maintenance and welfare of parents cannot be dependent upon the prayer made in the application. In the present application, it has been specifically stated that wife of applicant/respondent no. 3 is having Arthritis in hands and other joints of the body. She is unable to cook food for herself and the husband. Thus, maintenance awarded by the Tribunal in favour of the parents is too meager. A pensioner requires additional amount to supplement his day

to day living. Old parents have to maintain standard of life which they were having when one of them was in service. A father who has given his life long savings to settle the son cannot be denied fruits of earning by the son, merely because he is getting pension.”

30. In the case of **Jayashree vs. Union of India [(2019) 200 AIC 708]**, wherein in paragraph-21, the Kerala High Court observed as under:-

“21. The purpose of the Act being to ensure that a senior citizen or parent is able to live a life of dignity and self-respect and the statutory obligation, as is resolutely specified in Section 4(3) of the Act, being cast on the children to maintain his/her parent, so that such parent may lead a normal life, it is ineffable to hear the petitioner say that the words “having care and protection” is not capable of a definite meaning.”

31. In the case of **Anirban Chakraborty vs. State of West**

Bengal [(2019) 201 AIC 647], wherein the High Court of Calcutta observed as under:-

“11. The Tribunals constituted under the said Act are an alternative dispute redressal mechanism but, adjudication by the Tribunal does not infringe the power of this Court to issue writs under the Constitution by way of judicial review. Arriving at the conclusion that the writ petition is maintainable, this Court now proceeds to deal with the other questions which have arisen in this writ petition.

12. The order dated February 8, 2018 impugned to this writ petition has been passed in exercise of power under Section 23 of the said Act. The Appellate Tribunal affirmed the order. In this case, the provisions of Section 23 and Section 6 of the said Act are required to be discussed. Section 23 is quoted below:—

“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 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 or 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.”

13. Section 23 of the said Act provides that when a property has been transferred by way of a gift or otherwise, by a senior citizen on the condition that the transferee or the donee would provide the basic amenities and basic physical

needs to the transferor or the donor but, such transferee or donee subsequently fails to provide such amenities then, it would be deemed that the transfer was made by fraud, coercion or undue influence and the transferor would have the option of obtaining a declaration from the Maintenance Tribunal that such transfer was void.

14. Coming to the deed of gift in this case, it appears that the grandfather had gifted the property to the petitioner out of love and affection and as a reward for the respect, regard and care that the petitioner had shown to the grandfather. It has been specifically stated in the deed by the grandfather, that is, the respondent No. 5 that being pleased with the care, love, affection, respect and good behavior of the grandson, he was executing the deed of gift as a reward in favour of his grandson and in discharge of his responsibility towards the grandson as also as a future security for the grandson. Thus, the deed of gift in this case was not a conditional gift and no responsibility had been cast upon the petitioner to maintain the grandfather that is, the respondent No. 5. That apart, according to the respondent no. 5, the deed of gift was void and liable to be

cancelled having been obtained fraudulently. This is also not a case where respondent No. 5 had a right to receive maintenance out of an estate which was transferred by way of a gift to the petitioner and the petitioner not having given the maintenance out of the said estate, the respondent No. 5 in terms of Section 23(2) of the said Act had approached the Maintenance Tribunal. Section 27 of the said Act provides that a civil court shall not have any jurisdiction in respect of any matter to which the said Act applied and no injunction would be passed. However, the respondent No. 5 himself approached a civil court for cancellation of the deed of gift and also filed an application for temporary injunction prior to the order passed by the Chairman. The date of registration of Case No. 52 of 2017, before the Tribunal was November 7, 2017, that is, after the plaint was registered on October 26, 2017. The cause of action in the civil suit as pleaded in the plaint, had arisen due to creation of the deed of gift by fraud, coercion and undue influence by the petitioner and his father. The respondent No. 5 prayed that the deed of gift should be declared illegal, void and liable to be cancelled by the civil court with a further prayer

for declaration of the right, title and interest of the respondent No. 5 in respect of the said property. Along with the plaint, the respondent No. 5 filed an application for temporary injunction under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, with a prayer for an injunction upon the petitioner and the respondent No.6, restraining them from transferring and/or alienating the property in question as also from disturbing the peaceful possession and enjoyment of the property by the respondent No. 5 and 7. Thus, in this case, Section 27 of the said Act would not operate as a bar on the pending civil suit, inasmuch as, the ingredients of Section 23 of the said Act are not satisfied so as to enable the respondent no. 5 to maintain an application for a declaration that the deed of gift was void at his option under the said Act.”

32. In the case of **Deepak Kumar vs. Phoolwanti Devi and Others [(2019) 201 AIC 395]**, the High Court of Rajasthan in paragraph-6 observed as under:-

“6. I have given my thoughtful consideration to the arguments advanced at bar

and gone through the material available on record. Indisputably, as per the sale deed placed on record with the reply by the respondents, the house in question is exclusively owned by the respondent Smt. Phoolwanti, who is registered owner thereof. The respondents while instituting the application under the Act of 2007, categorically asserted that the petitioner was not maintaining them and rather was harassing and ill-treating them in their own house, significant portion whereof had been provided by the respondent No. 1 to the petitioner for residence and for running his business. Thus, unquestionably, the respondent No. 1 Smt. Phoolwanti has a right under the scheme of the Act of 2007 to get vacated the portion of her own house, which, the petitioner had simply been given permission to reside and to do business. As the petitioner has failed to perform a son's obligations towards the parents, he has no right to stay on in their house contrary to their wishes and to their detriment.”

DISCUSSIONS:

33. Close reading of the principles considered by the various High Courts and the Supreme Court, there is no ambiguity with reference to the purpose and object sought to be achieved under the provisions of the Senior Citizen Act. Section 4(2) of the Act, unambiguously stipulates that the obligation of the children or the relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

34. In the context of the adoption of the phrase “lead a normal life” Rule 20(2)(i) of the Maintenance of Senior Citizen Rules, enumerates that “it shall be the duty of the District Collector to ensure that life and property of senior citizens of the District are protected and they are able to live with security and dignity”. Therefore, normal life includes security and dignity. Thus the normal life as indicated under Section 4(2) of the Act, is not mere life, but a life with security and dignity. In the context of Article 21 of the Constitution of India, life includes decent medical facility, food, shelter with dignity and security. All such combined necessities of human

life is falling under the term “Normal Life” emboldened under Section 4(2) of the Senior Citizen Act. Therefore, simply providing food and shelter would be insufficient. But life includes providing of decent medical facilities, food, shelter and other requirements with dignity in commensuration with the status of the family and taking into consideration of the living style of the senior citizen throughout.

35. Therefore, the children defending their case merely on the ground that they are willing to provide food and shelter, cannot be taken as a ground for the purpose of sustaining the Settlement Deed executed by the senior citizen. The requirement of the provisions are to be complied in its real spirit and in the event of an iota of doubt, the Authority Competent is empowered to cancel the Settlement Deed or Gift Deed, as the case may be, in order to protect the normal life of senior citizen.

36. Section 4(3) denotes, the obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parents may lead a normal life. Therefore, it is an obligation on the part of the children to

maintain his or her parents and ensure the parents to lead a normal life. In the event of complaint, the Authorities Competent are expected to ensure that the senior citizen and their life and dignity are protected. The above provision is to be read in conjunction with the Rules framed under the Act.

37. Rule 20 of the Maintenance of Senior Citizen Rules, provide duties and powers of the District Collector. The District Collector is casted upon the duty to ensure that the life and property of citizens of the District are protected and other people to live with security and dignity. Therefore, it is the statutory duty on the part of the District Collector to protect the safety and security of senior citizens in his District. Thus the complaint filed by the senior citizen, cannot be treated lightly. Such complaints are to be enquired into in a pragmatic manner, so as to understand the real grievances of the senior citizen and accordingly, all appropriate actions are to be initiated to provide safety, security and to protect the dignity of the senior citizen.

38. The Kerala High Court observed in the case of **Radhamani and Others** (cited supra), Section 23(1) of the Senior Citizen Act, cannot be

interpreted to the disadvantage of the senior citizen. Section 23(1) of the Act contemplates that “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”. The phrase “ subject to the condition that the transferee shall provide the basic amenities” does not mean that the Gift or Settlement Deed should contain any such condition expressly. “Subject to the condition” as employed in Section 23(1), is to be holistically understood with reference to the subsequent phrase i.e., “deemed to have been made by fraud or coercion or undue influence”. Both the phrases would amplify that the deeming clause should be considered so as to form an opinion that the phrase “subject to condition” amounts to an implied condition to maintain the senior citizen and any violation would be sufficient for the purpose of invoking Section 23(1) of the Act, to cancel the Gift or Settlement Deed executed by the senior citizen.

39. To elaborate, the phrase “subject to condition” employed under Section 23(1) of the Act, is to be understood with reference to the love and affection by the senior citizen towards the person in favour of whom such Gift or Settlement Deed has been executed.

40. “Love and Affection” is an implied condition in the context of Section 23(1) of the Act, and therefore, there need not be any express condition in the Settlement Deed for the purpose of maintaining the senior citizen. Refusal of maintenance after executing the Settlement Deed or Gift Deed, is the ground for invoking the deemed ground of fraud or coercion or undue influence. When the deeming clause has been incorporated under the provisions of Section 23(1) of the Act, 'Love and Affection' to be construed as the consideration for executing the Gift or Settlement Deed. Thus the condition need not be expressly made in the document and the love and affection, which resulted in execution of the Deed by the senior citizen is to be construed as a condition for the purpose of invoking the deeming clause for declaring the document as fraud or coercion or undue influence.

41. The entire purpose and object of the Senior Citizens Act, is to consider the human conduct towards them. When the human conduct is indifferent towards senior citizen and their security and dignity are not protected, then the provisions of the Act, is to be pressed into service to safeguard the security and dignity of senior citizen. Therefore, the purposive interpretation of the provisions are of paramount importance and Section 23 of the Act, cannot be mis-utilised for the purpose of rejecting the complaint filed by the senior citizen on the ground that there is no express condition for maintaining the senior citizen. Even in the absence of any express condition in the document, “Love and Affection” being the consideration for execution of Gift or Settlement Deed, such love and affection becomes a deeming consideration and any violation is a ground to invoke Section 23(1) of the Act. Thus there is no infirmity in respect of the order passed by the second respondent in the present case.

42. The human conduct in the context of the senior citizen Act, is to be understood considering the relationship between the senior citizen and the beneficiaries of the Gift or Settlement Deed. Mostly the parents are executing the document in favour of their children. Since they may not be in

a position to maintain the property at their old-age and more-so, they are intending to visibly express their love and affection towards their children by settling their properties. In some cases, the parents during their old-age are settling their property in order to avoid conflict between their children and to ensure that all children get equal share. If at all the parents decide to settle the property in favour of a son or daughter, then they are doing so, only with love and affection and with a fond hope that they will be taken care of by the son or daughter during their old-age. Thus love and affection, being the consideration and implied condition, within the meaning of Section 23(1) of the Act. The subsequent non-maintenance of senior citizen would attract Section 23(1) of the Act and the Authorities in such circumstances are empowered to declare the document as null and void.

43. Therefore, Section 23 is referable as a conduct of the transferee prior to and after execution of the Deed of Gift or Settlement, as the case may be. For all purposes, Section 23 is to be understood taking note of the conduct of the transferee and not with reference to the specific stipulation of condition in the Deed of Gift or Settlement.

44. In respect of the judgment relied on by the petitioner in the case of **Sudesh Chhikara vs. Ramti Devi and Another** (cited supra), the Three Judges Bench of the Hon'ble Supreme Court of India in the case of **S.Vanitha vs. Deputy Commissioner, Bengaluru Urban and District and Others** (cited supra) is to be followed. There are several judgments to establish that the purpose and object of the Senior Citizens Act, is to be complied with in its letter and spirit in order to protect the life, security and dignity of senior citizens. Thus the judgment relied on by the petitioner is of no avail as far as the present facts and circumstances of the case on hand is concerned.

45. In the present case, the fourth respondent, who is the mother of the writ petitioner, could establish that after execution of Settlement Deed, the petitioner has refused to maintain his parents. Regarding the contentions of the petitioner that he purchased the subject property from and out of his own income. The documents are to be considered. The fourth respondent purchased the subject property vide Sale Deed dated 14.08.2003. The fourth respondent in her complaint stated that from and out of the income of her husband, gold jewels and savings, she had

purchased the subject property in the year 2003. In the affidavit filed in support of the present writ petition, the petitioner has stated that he is aged about 43 years. On the date of purchase of the subject property, he was around 23 years old. Thus a factual inference can be drawn by this Court that the statement made by the petitioner that he purchased the property in the year 2003 in the name of his mother-fourth respondent, cannot be trusted upon. The declaration given by the brother and two sisters of the petitioner was made with the fond hope that the petitioner would take care of the fourth respondent and her husband. The fourth respondent executed the Settlement Deed on 20.10.2020 and in the said document, the fourth respondent has stated as follows:-

“நீ எனது மகன் ஆனபடியாலும்
 உம்மீது எனக்குள்ள அன்பினாலும்
 பிரியத்தினாலும் உமக்கு ஒரு சொத்து எழுதி
 வைத்து ஆதரவு செய்ய வேண்டும் என்கிற
 நல்ல எண்ணத்தின் பேரிலும் ஐடி
 சொத்தைக் கொண்டு உமது வாழ்க்கை
 நிலை மென்மேலும் உயரவேண்டும் என்கிற
 ஆசையினாலும், ஏனக்கு சுயார்ஜிதமாய்
 14.08.2003ந் தேதியில் கிரய வகையில்
 பாத்தியப்பட்டதும் அது திருப்பூர்
 மாவட்டப்பதிவாளர் ஆபீசில் 1 புத்தகம் 4618/

2003 நெம்பராகப் பதிவாகியுள்ளதும், ஏன் சுவாதீன அனுபோகத்தில் சர்வ சுதந்திரமாக அனுபவித்துவரும் கீழ்க்காணும் சொத்துக்கு நான் உம்மிடமிருந்து யாதொரு தொகையும் பிரதிப் பிரயோஜனமாக பெறாமலும் எதிர் பார்க்காமலும் உமக்கு தானமாக செட்டில்மெண்ட் செய்து வைத்து சொத்தையும் நாளது தேதியில் உமது சுவாதீனத்தில் விட்டுவிட்டேன்."

46. The above recital in the Settlement Deed would amplify the good intention of the fourth respondent, who is the mother of the writ petitioner. She has stated that out of love and affection, to support the petitioner and for the betterment of his future life, she has executed the Settlement Deed in favour of the writ petitioner. When such being the recital, the natural expectation of a mother would be that she will be maintained by her son till her lifetime. Therefore, the recital shown above would be sufficient to satisfy the requirements of Section 23(1) of the Senior Citizens Act, since the "Love and Affection" and the good intention of the parents are the implied conditions for the purpose of invoking the deeming clause of fraud, coercion or undue influence.

47. The facts established would be sufficient enough for arriving an inevitable conclusion that the fourth respondent is entitled for the relief as rightly granted by the respondents 1 and 2 and there is no infirmity or perversity in respect of the order impugned.

48. Accordingly, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

08-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

- 1.The District Collector,
Tiruppur District.
- 2.The Executive Magistrate,
And Revenue Divisional Officer,
Tiruppur District.
- 3.The Sub Registrar Joint-I,
Thiruppur,
Thiruppur District.

S.M.SUBRAMANIAM, J.

Svn

WP 28190 of 2022

08-09-2023