III ADDITIONAL DISTRICT AND SESSIONS COURT,
TIRUVALLUR AT POONAMALLEE.

Present: **Thiru. C.VIJAYAKUMAR, B.A., B.L.,**
III Additional District and Sessions Judge.

Thursday, the 13th day of August 2026

<u>O.S.No.150/2020</u>

BLB Estates Pvt. Ltd.,
Sree Audisesh Bhavan,
New No.21, Chinnaiah Street,
T. Nagar, Chennai – 600 017. **...Plaintiff**

//Vs//

1) Corporation Bank,
Chennai Kilpauk Branch,
No.112, Choolai High Road,
Choolai, Chennai – 600 112.

2) Mr. B. Saravanan,

3) Mr. B. Ravi,
Defendants 2 & 3 residing at,
No.8/44A, Bharathiyar Street,
1st lane, Choolaimedu,
Chennai – 600 094.

4) M/s. Sasi Krishna Houses Pvt. Ltd.,
No.97, Second Floor,
No.27, Balakrishna Appartments,
Periyarpathai (Near 100' Road),
Choolaimedu, Chennai – 600 095. **...Defendant**

This suit came up before this Court for final hearing on 13.07.2026, in the presence of M/s. Rank Associates learned counsel for the plaintiff, M/s. K. Sarath

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Babu, W.M. Abdul Azeez, leanred counsels for the 1st Defendant, Defendants 2 to 4 set exparte on 16.03.2021 and upon hearing on the both sides and on perusal of oral and documentary evidence,written arguments, having stood over for consideration till this day, this court delivered the following:

J U D G M E N T

This suit is filed by the plaintiff for the relief of **a)** declaration of title over the suit scheduled property; **b)** and cost for the suit.

2) The brief facts of the case as stated in the plaint by the plaintiff are as follows:

2-1) The plaintiff asserted absolute ownership and peaceful possession of a 950-square-foot first-floor flat at Sasi Castle Apartments in Valasaravakkam, Chennai, which included a reserved car park and a 330-square-foot undivided share of land. Tracing a clean chain of title back to the developer's original 2005 transaction, the plaintiff had acquired the property in 2012 via a registered sale deed from Mr. R. Narayanan and subsequently updated all municipal property tax and utility records. However, a major legal dispute arose in 2016 when a SARFAESI Act notice addressed to third parties Saravanan and Ravi was found pasted on the flat, which the first defendant's office initially dismissed and removed as a clerical oversight. The conflict escalated on 12.02.2018, when a second SARFAESI notice was affixed to the premises, identifying the property as Flat F-1 with completely different dimensions, specifically an 896-square-foot plinth area and a 342-

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square-foot undivided land share. Although the plaintiff formally objected to the mismatched property descriptions, the first defendant replied that same day, aggressively claiming the flat belonged to the second defendant, who had mortgaged the original title deeds to secure a bank loan.

2-2) The first defendant further claimed that, to their knowledge, the flat had never been sold to anyone, including the plaintiff or their predecessors, and warned the plaintiff not to interfere with enforcement actions under the SARFAESI Act. Because the first defendant completely ignored the blatant differences in flat dimensions and constructed areas, the plaintiff's representatives personally met with the bank officials to clarify the situation, subsequently documenting the meeting in a formal letter. This communication reasserted the plaintiff's absolute ownership since 2005 and revealed severe flat-numbering confusion within the complex; specifically, while only four units physically existed on the first floor, five door numbers had been erroneously assigned due to a sub-division, resulting in the label "F-1" being mistakenly painted on the plaintiff's door instead of the unit opposite, which should have been designated as F-4 or F-5. Inquiries with the developer's son, Mr. Kishore, confirmed that the late developer, Mr. Sasidhar, had been aware of these administrative errors. Follow-up correspondence on 26.03.2018, further clarified that the ground floor contained units G-1 and G-2, the first floor held F-1 through F-4, and the second-floor units had been mistakenly stamped with first-floor prefixes (F-1, F-2, F-3) instead of second-floor designations (S-1, S-2, S-3), a blunder corroborated by existing third-party sale deeds dating back to 2010.

2-3) Instead of responding to the clarifications, the first defendant went ahead and affixed an e-auction notice on the plaintiff's door on 30.04.2018. The plaintiff maintained that because they were not a borrower and had never mortgaged their flat to the bank, the first defendant had no legal authority to proceed against the property under the SARFAESI Act, prompting the current civil suit to seek declaratory relief protecting their title and possession. Due to the persistent harassment, the plaintiff was previously forced to file an appeal before the Debt Recovery Tribunal–III (DRT) in Chennai under Section 17 of the SARFAESI Act, but that petition could not be pursued once the bank's initial auction sale collapsed. However, when the bank published a subsequent online notice scheduling a new auction sale for 09.08.2018, the plaintiff realized a permanent cloud was being cast over their title, making a formal declaration from a competent civil court absolutely vital to safeguard their property interests. Furthermore, a thorough comparison of the bank’s DRT filings against the original developer records from the Registrar of Assurances exposed massive discrepancies in land extent and undivided shares (UDS), proving that the flat claimed as a secured bank asset was an entirely different property from the plaintiff’s home. A comprehensive audit of all eleven original unit sales executed by the developer spanning buyers from Mohana Krishnan in 2004 to BLB Estates in 2012 confirmed that the total land extent conveyed perfectly accounted for the entire 4,422 square feet of the plot, proving that no separate flat physically existed or was ever constructed in the name of the second defendant. Finally, the plaintiff noted that while a true principal owner would naturally have their name registered on municipal property tax, electricity, water, and drainage assessments, no such records ever existed in the name of the second defendant. The plaintiff asserted that despite years passing since a sale deed was executed for the second defendant, no municipal utility or tax assessments existed in that individual's name. The plaintiff strongly rejected the 2018 report, labeling its interior photographs and alleged inspections as highly suspicious and fabricated, since access to the flat was never granted. Hence, the suit.

3) <u>The brief facts of the Written Statement filed by the 1st Defendant as follows:</u>

3-1) The first defendant bank contended that the plaintiff's occupation through a tenant did not confer legal title and that producing property tax or utility receipts was insufficient to establish ownership over the property. Furthermore, the bank rejected the plaintiff's outlined chain of title, denying that Mrs. Mathini Devi was the first buyer or that she had executed a 2005 construction agreement and sale deed with the developer for a 950-square-foot flat. Instead, the bank maintained that the true primary transaction occurred in 2004, when the second and third defendants, Mr. Saravanan and Mr. B. Ravi, applied for a housing loan to purchase the flat under a different set of dimensions, specifically an 896-square-foot built-up area and a 342-square-foot undivided share of land. Upon evaluating their application, the bank had formally sanctioned a loan of Rs.11,80,000/- on 15.09.2004, under specific repayment terms consisting of a 15-year tenure with an interest rate of 8.25% per annum linked to the retail prime lending rate.

3-2) The first defendant bank contended that following the loan sanction, the entire Rs.11,80,000/- sum was disbursed to the borrowers in three separate check installments during September 2004, backed by an executed loan agreement, promissory note, take delivery letter, and a third-party guarantee from Mrs.Udhaya. On 15.09.2004, the borrowers simultaneously executed an indemnity letter, a power of attorney, and a formal declaration covering the loan and the corresponding flat. Utilizing these disbursed funds, the second defendant entered into a construction agreement with the developer on 06.09.2004, followed by a formal sale deed on 01.12.2004, which was registered as Document No. 6701 of 2004 through the original landowner's power agent. The bank heavily emphasized that both transactions took place significantly prior to the 2005 documents cited in the plaintiff's chain of title. The borrowers then completed the mortgage on December 8, 2004, by physically depositing the original 2004 sale deeds at the bank, periodically executing formal acknowledgments of the outstanding debt up through 25.05.2015. However, due to continuous payment failures, the bank eventually classified the loan account as a Non-Performing

Asset (NPA) on 13.06.2012, in strict accordance with standard RBI guidelines. Consequently, on 13.11.2017, the bank issued an official statutory demand notice under Section 13(2) of the SARFAESI Act for an outstanding balance of Rs.12,96,245/- plus compounding interest and expenses, which the borrowers completely ignored without ever filing a reply or a legal challenge.

3-3) The first defendant bank proceeded with its SARFAESI enforcement actions by issuing a formal Possession Notice on 12.02.2018, followed by an Auction Notice on 30.04.2018, which scheduled a public sale of the 896-square-foot first-floor secured asset for 06.06.2018. Although the plaintiff repeatedly challenged these actions, the Debt Recovery Tribunal-III (DRT) in Chennai consecutively dismissed their appeals on 06.06.2018, and 14.05.2019, a vital procedural history that the bank accused the plaintiff of deliberately suppressing in the current suit. Furthermore, the bank rejected any claims of a clerical oversight or flat-numbering confusion, asserting that because all bank-backed housing loan transactions and title deposits were fully finalized in 2004, the plaintiff's ultimate predecessor had a strict legal duty to uncover these prior encumbrances before trying to buy into the complex in late 2005. To systematically dismantle the plaintiff's chain of title, the bank calculated that the total land area conveyed under the developer's original layout reached 4,422 square feet, vastly exceeding the plot's actual physical foundation of 3,149 square feet. Because the entire legitimate layout area had already been legally exhausted and sold to prior buyers in 2004, the bank asserted that absolutely no valid undivided share of land remained left over to be legally conveyed to the plaintiff's predecessor in late 2005, rendering that subsequent title void. Finally, the bank contended that a broader systemic issue within the building complex, revealing that multiple other flat owners including Mr. Muralidharan on the ground floor and Mr. Mohana Krishnan on the first floor had similarly defaulted on their housing loans and were facing parallel SARFAESI foreclosure proceedings.

3-4) The bank added that it had initiated parallel SARFAESI actions against other defaulting owners in the complex, including Antony Anbu on the second floor and Mr. Karthick on the ground floor.Furthermore, it contended that municipal property tax, electricity, and CMWSSB records do not legally prove ownership or title. It maintained that the borrowers' 896-square-foot flat was lawfully mortgaged and constructed in 2004 during the complex's development stage, a timeline thoroughly verified by the bank before sanctioning the loan. Denying any mistaken property identity or negligent valuation practices, the bank concluded that it was acting strictly on documentary evidence, and advised that any property grievances must be pursued against the plaintiff's own predecessors in title rather than the financial institution.Hence seeking dismissal of the suit.

4) Upon perusal of the plaint and written statements the follwoing issues are framed :

1) Whether the suit property belongs to the Plaintiff or the Defendants 2 & 3 ?

2) Whether this Court has got Jurisdiction to try this suit ?

3) Whether the Plaintiff is entitled to the decree as prayed ?

4) To what other reliefs the parties entitle for ?

5) During trial, on the side of the plaintiff Mr. Balamurugan was examined as PW1 and 22 documents were marked as Ex.A.1 to Ex.A.22; on the side of the defendants Mr. Vivek Srivastava was examined DW1 and 14 documents were marked as Ex.B.1 to Ex.B.14.

6) <u>Now this Court answered the Issue No.1 : Whether the suit property belongs to the Plaintiff or the Defendants 2 & 3 ?</u>

6-1) The plaintiff has instituted the present suit seeking a declaration that he is the absolute owner of the suit schedule property and for costs of the suit. The necessity for seeking such declaration, according to the plaintiff, arose on account of the SARFAESI proceedings initiated by the first defendant bank in respect of the suit property which, according to the plaintiff, is his property and over which the plaintiff claims absolute title and possession.

6-2) The suit property is the first-floor Flat bearing No. F-1 in Sasi Castle Apartments, Valasaravakkam, Chennai, having a built-up/plinth area of 950 sq.ft., together with 330 sq.ft. of undivided share in the land (UDS) and a reserved car parking space out of total extent of vacant land 4442 sq ft.

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6-3) When the plaintiff seeks a declaration under Section 34 of the Specific Relief Act, the plaintiff has to initially establish his right or title in respect of the suit property, particularly when the same is specifically disputed by the first defendant. In the present case, defendants 2 to 4 remained ex parte. Therefore, the contest is essentially between the plaintiff and the first defendant. To establish his case, the plaintiff examined **Mr. Balamurugan as P.W.1** and through him, **Ex.A.1 to Ex.A.22** were marked.

6-4) The plaintiff traces his title to the suit property from the developer through the successive purchasers. According to the plaintiff, Mrs. R.Mathini Devi was the first purchaser of the flat. In her favour, the developer executed a Construction Agreement and Agreement for Sale dated 24.09.2005, which are marked as **Ex.A.2 and Ex.A.3** respectively. Thereafter, the undivided share in the land was conveyed in favour of the first purchaser under the Sale Deed dated 28.10.2005, marked as **Ex.A.4.** The plaintiff relies upon these documents as the commencement of his chain of title from the developer.

6-5) Thereafter, the flat was conveyed under a Sale Deed dated 05.02.2009 in favour of the plaintiff's vendors, which is marked as Ex.A.5. The plaintiff thereafter claims to have purchased the suit property from his vendor Mr. R. Narayanan under a registered Sale Deed. The plaint states that the plaintiff acquired the property from R. Narayanan in the year 2012.

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6-6) Thus, the plaintiff's pleaded chain of title is that the Developer conveyed the flat to Mrs. R.Mathini Devi, the first purchaser, under the Construction Agreement and Agreement for Sale dated 24.09.2005; the undivided share was thereafter conveyed under the Sale Deed dated 28.10.2005 (Ex.A.4); the property was subsequently conveyed under the Sale Deed dated 05.02.2009 in favour of the plaintiff's vendors (Ex.A.5); and thereafter the plaintiff acquired the property from Mr. R. Narayanan under a registered Sale Deed in the year 2012. The plaintiff further relies upon the Encumbrance Certificate (Ex.A.13) to show the transactions undertaken by the developer and upon the property-tax and electricity records marked as **Ex.A.7, Ex.A.14, Ex.A.19 and Ex.A.20** to establish his subsequent possession and enjoyment of the property.

6-7) Among the documents, filed on the side of the plaintiff **Ex.A.22** is the reply furnished under the RTI Act by the Assistant Revenue Officer, Valasaravakkam, dated 24.06.2022. The said document has been relied upon by the plaintiff to show the assessment and possession particulars relating to the suit property.This document shows who are all the property tax paid in the 8 aprtments. The name of the plaintiff shown in the docuement . The plaintiff has also relied upon the property tax assessment and receipts marked as **Ex.A.19** and the electricity connection transfer and tariff card marked as **Ex.A.20**, which stand in his name. These documents are relied upon by the plaintiff to show his continued possession

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and enjoyment of the suit property. The plaintiff has further relied upon Ex.A.8, Ex.A.10 and Ex.A.12, being the letters addressed by him to the first defendant, and Ex.A.9, the possession notice affixed by the first defendant dated 12.02.2018. Ex.A.11 is the reply mail received from the first defendant. The contents of these communications shows that the plaintiff asserted before the first defendant that the property in his possession was his own property.

6-8) In these circumstances, the claim of the plaintiff has to be considered against the claim of the first defendant Bank. The first defendant Bank has taken a specific stand that the suit property claimed by the plaintiff is not the property in respect of which the plaintiff can claim a better title against the Bank. According to the first defendant, Defendants 2 and 3 had approached the Bank in the year 2004 for a housing loan for purchasing the flat, and the loan was sanctioned for the purchase of a flat measuring 896 sq.ft. with 342 sq.ft. undivided share in the land. The second defendant thereafter entered into a Construction Agreement with the developer on 06.09.2004 and a Sale Deed was executed on 01.12.2004, which was registered as Document No.6701 of 2004. The first defendant further contends that the original title deeds relating to the said property were deposited with the Bank on 08.12.2004, thereby creating a mortgage (MOD) in its favour.

6-9) The first defendant therefore contends that its mortgage is based upon documents which came into existence much prior to the documents relied upon by

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the plaintiff in support of his title.

> a) The Bank disputes the plaintiff's contention that there was any mistake in the identification or numbering of the flat and maintains that the property mortgaged by Defendants 2 and 3 is the secured asset against which the SARFAESI proceedings were initiated.
>
> b) The Bank also disputes the plaintiff's chain of title and contends that the entire available extent of land and undivided share had already been conveyed under the earlier transactions and that no valid undivided share remained thereafter to be conveyed to the plaintiff's predecessor.

The rival claims therefore require consideration with reference to the identity of the property, the respective chain of title and the priority of the documents relied upon by the parties.

6-10) The first defendant Bank, in support of its defence, examined its Manager **Mr. Vivek Srivastava as D.W.1**, and through him **Ex.B.1 to Ex.B.14** were marked. The documents marked on the side of the first defendant relate to the loan transaction, the purchase of the secured property, creation of the mortgage and the subsequent recovery proceedings. **Ex.B.1**, the Loan Application dated 07.09.2004, shows that Defendants 2 and 3 approached the first defendant Bank for a housing loan. **Ex.B.2 to Ex.B.8** consist of the documents executed in connection with the said loan transaction, namely, the Title Deed Letter/Agreement to Deposit Title Deeds, Promissory Note, Take Delivery Letter,

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Loan Agreement, Letter of Guarantee, Letter of Indemnity and Power of Attorney, all dated 15.09.2004. **Ex.B.9**, the Sale Deed dated 01.12.2004, and **Ex.B.10**, the Construction Agreement dated 06.09.2004, are relied upon by the first defendant to establish the purchase of the secured property by the second defendant. Ex.B.9 is stated to have been registered as Document No.6701 of 2004. **Ex.B.11**, the Letter Evidencing Deposit of Title Deeds, is relied upon to establish the creation of the mortgage in favour of the first defendant Bank. Thus, Ex.B.1 to Ex.B.11, when read together, disclose the case of the first defendant that the loan transaction, purchase of the property and creation of the mortgage had taken place in the year 2004.

6-11) Thereafter, **Ex.B.12**, the Acknowledgment of Debt dated 25.05.2015, relates to the subsisting liability of the borrowers. **Ex.B.13**, the Demand Notice dated 13.11.2017, shows the initiation of proceedings by the first defendant under the SARFAESI Act for recovery of the outstanding amount. **Ex.B.14**, the Statement of Accounts dated 23.05.2018, relates to the loan account and the amount claimed to be due from the borrowers.

6-12) Thus, the evidence produced by the first defendant through D.W.1 is directed to establish that Defendants 2 and 3 had obtained the housing loan in the year 2004, that the property was purchased under the Sale Deed ExB9 dated 01.12.2004, that the original title deeds were deposited with the Bank creating a mortgage in its favour, and that, upon default in repayment, the Bank proceeded with recovery measures. The first defendant relies upon these documents to support its contention that its claim over the secured property is founded upon a transaction which preceded the subsequent documents relied upon by the plaintiff.

6-13) In these circumstances, the learned counsel for the plaintiff has taken a plea that **Ex.B.9**, the Sale Deed executed by the 4th defendant in favour of Defendants 2 and 3, is sham and nominal and was not acted upon, and hence the subsequent loan transaction entered into by Defendants 2 and 3 with the first defendant Bank was also not acted upon in respect of the suit property. The learned counsel further contended that **Ex.B.9** Sale Deed is earlier in point of time to the plaintiff's Sale Deed, Ex.A.6, and that notwithstanding the earlier date of Ex.B.9, the said document did not create any valid or subsisting right in favour of Defendants 2 and 3 over the suit property, as the transaction was sham and nominal and was never acted upon.

6-14) Upon considering the above plea, it is seen that Ex.B.9 Sale Deed executed in favour of Defendants 2 and 3 was a duly registered document. Therefore, the contents of the said registered document are required to be proved in accordance with **Section 91 of the Indian Evidence Act.** Section 91 lays down the rule as to the exclusion of oral evidence by documentary evidence in respect of the terms of a contract, grant or other disposition of property which have been reduced to the

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form of a document. However, the said rule is subject to the exceptions contained in **Section 92 of the Indian Evidence Act**.

6-15) In particular, **Proviso (1) to Section 92** permits any fact to be proved which would invalidate the document or which would entitle any person to any decree or order relating thereto, including fraud, intimidation, illegality, want of due execution, want of capacity, want or failure of consideration, or mistake in fact or law. Therefore, merely because Ex.B.9 is a registered document and its terms are governed by Sections 91 and 92 of the Indian Evidence Act, it cannot be said that a person who is not a party to the document is altogether precluded from adducing evidence to establish a circumstance which would invalidate the document.

6-16) In the present case, the plaintiff is admittedly a third party to Ex.B.9 Sale Deed. The plaintiff has taken the specific plea that the transaction under Ex.B.9 is sham and nominal and was not acted upon, and that the said transaction does not create any valid right in favour of Defendants 2 and 3 over the suit property. Such a plea, if established by acceptable evidence, is a circumstance which goes to the validity and effect of the document itself. Therefore, the plaintiff cannot be prevented, merely on the ground that he is a third party to Ex.B.9, from placing evidence before the Court to establish his plea that the document was sham and nominal and was not acted upon.

6-17) Accordingly, the evidence adduced by the plaintiff in support of his plea regarding the nature and effect of Ex.B.9 has to be considered along with the documentary evidence relied upon by the first defendant. The question is not merely whether Ex.B.9 is a registered document, but whether the plaintiff has established, by the evidence available on record, that the transaction evidenced by Ex.B.9 was in fact sham and nominal, without consideration and not acted upon, so as to affect the right claimed by Defendants 2 and 3 and the subsequent mortgage relied upon by the first defendant Bank.

6-18) Now, the specific point for consideration is whether Ex.B.9 Sale Deed executed by D4 in favour of D2 and D3 is sham and nominal. A valid sale of immovable property is defined **under Section 54 of the Transfer of Property Act**, and a concluded contract of sale is governed by the provisions of the Indian Contract Act. As per Section 54 of the Transfer of Property Act, valid consideration is an essential element of a sale. In the present case, this Court has to consider whether the consideration mentioned in the Sale Deed was in fact paid to the vendor, namely, D4. There is no contra evidence adduced by the plaintiff to establish that the consideration mentioned in the Sale Deed was false or that no consideration was paid. Further, after execution of Ex.B.9 Sale Deed, the first defendant Bank sanctioned the loan in favour of D2 and D3, and the subsequent Memorandum of Deposit of Title Deeds (MOD) was executed in favour of the

Bank.

6-19) In these circumstances, **under Section 8 of the Indian Evidence Act**, the previous and subsequent conduct of the parties to the suit, which influences or is influenced by any fact in issue, is relevant. In the present suit, the fact in issue is whether Ex.B.9 Sale Deed is sham and nominal. Hence, the subsequent conduct of the parties after the execution of Ex.B.9, particularly with regard to the sanctioning of the loan by the first defendant Bank in favour of D2 and D3 and the creation of the mortgage in favour of the Bank, is relevant for deciding the said fact in issue.

6-20) In these circumstances, the plaintiff relies upon **Ex.B.14,** the Statement of Accounts relating to the housing loan availed by Defendants 2 and 3. On a perusal of the said Statement of Accounts, it is seen that the loan repayments made on **04.06.2007, 05.09.2007, 13.02.2008, 19.03.2008, 30.04.2008, 12.12.2008, 02.01.2009, 07.01.2009, 16.05.2011, 29.02.2012 and 28.03.2015** were made by the 4th defendant and V. Sasidharan and the last entry is by his son kishore the developer of the property. The fact that the loan repayments were made by the 4th defendant is also admitted by D.W.1, the Manager of the first defendant Bank, during his evidence.The Ex B14 shows the account is the Home Loan Account in the number of CHOME/18 A/C N0 41057.The ExB12 the Acknowledgment of debt shows that the Home loan account in the name of B.Saravanan is the present

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Home loan account of D2.The ExB10 shows that the owner of D4 company is Sasidharan.

6-21) The plaintiff therefore contends that the above conduct of the parties shows that, though Ex.B.9 Sale Deed stood in the names of Defendants 2 and 3, the loan liability was in fact being discharged by the 4th defendant and V. Sasidharan. According to the plaintiff, this circumstance assumes significance in considering whether the transaction under Ex.B.9 was a genuine sale transaction or was only a nominal transaction entered into for the purpose of availing the housing loan in the names of Defendants 2 and 3. The subsequent conduct reflected in Ex.B.14, particularly the repayment of the loan by the 4th defendant and V. Sasidharan, is therefore relied upon by the plaintiff in support of his plea that Ex.B.9 Sale Deed was not acted upon as a genuine sale transaction.

6-21) In these circumstances, the subsequent conduct of Defendants 2 to 4 also requires consideration. Defendants 2 to 4 have not appeared before this Court and have not contested the suit. Defendants 2 and 3 are stated to be the purchasers of the property and the borrowers who availed the housing loan from the first defendant Bank. In this regard, **Section 114 of the Indian Evidence Act** permits the Court to presume the existence of facts having regard to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

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6-22) When the subsequent conduct of Defendants 2 and 3 is considered in the light of **Ex.A.22, the RTI reply**, it is seen that the said document discloses the details of the flats in the concerned apartment and nowhere does the name of Defendants 2 and 3 find place as the owners or occupants of any of the flats. This circumstance assumes significance when Defendants 2 and 3 are stated to be the purchasers of **Flat No.F1 in the first floor** under Ex.B.9. There is no evidence before this Court to show that Defendants 2 and 3 ever took possession of the said flat or that they were in possession of any other flat in the apartment.

6-23) If Defendants 2 and 3 were the genuine purchasers of Flat No.F1 in the first floor and had availed the housing loan for purchasing the said flat, their subsequent conduct would ordinarily be expected to disclose some act of ownership, possession or enjoyment of the property. However, they have neither appeared before this Court to support the transaction nor placed any material to show that they had taken possession of the property. Their complete silence and absence from the property, despite being shown as the purchasers under Ex.B.9 and the borrowers under the loan transaction, is a circumstance which has to be considered while examining the nature of the transaction under Ex.B.9.

6-24) On the other hand, the evidence regarding repayment of the housing loan by the 4th defendant, as reflected in Ex.B.14 and admitted by D.W.1, also assumes significance. The person who is alleged to have sold the property under Ex.B.9

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had thereafter participated in discharging the loan liability availed in the names of Defendants 2 and 3. The subsequent conduct of Defendants 2 to 4, therefore, does not appear to be consistent with the conduct normally expected from genuine purchasers and a genuine vendor after completion of a sale transaction.

6-25) Thus, the absence of possession or enjoyment by Defendants 2 and 3, their failure to contest the suit, the absence of their names in the relevant records relied upon by the plaintiff, and the subsequent repayment of the housing loan by the 4th defendant, when considered together, constitute circumstances relevant for examining the plaintiff's plea regarding the nature of Ex.B.9. In the absence of any contra evidence from Defendants 2 and 3, who are the parties directly concerned with the transaction, this Court is constrained to consider the effect of their subsequent conduct. **Hence, this Court comes to the conclusion that the subsequent conduct of Defendants 2 to 4, when considered along with the documentary evidence and the evidence of D.W.1, supports the plaintiff's contention that the transaction under Ex.B.9 was a sham and nominal transaction and was not acted upon as a genuine sale between the parties.**

6-26) In these circumstances upon consideration of the entire oral and documentary evidence, this Court finds that the plaintiff has established his claim of title and possession over the suit property. The plaintiff has traced his title through the successive transactions commencing from the developer, the first purchaser Mrs. R.Mathini Devi, the subsequent purchaser R. Narayanan, and thereafter the plaintiff, and has produced the relevant title documents in support of the said chain. The plaintiff has also produced the property tax and electricity records and the RTI reply to establish his possession and enjoyment of the suit property. On the other hand, though Ex.B.9 Sale Deed stands in the names of Defendants 2 and 3, the subsequent conduct assumes significance. Defendants 2 and 3 have neither entered the witness box nor produced any material to show their possession or enjoyment of the property. The repayments under the housing loan were admittedly made on several occasions by the 4th defendant and V. Sasidharan, as reflected in Ex.B.14 and admitted by D.W.1. Further, the materials produced through Ex.A.22 do not disclose the names of Defendants 2 and 3 as persons in possession or enjoyment of the concerned flat. These circumstances, when considered cumulatively, cast serious doubt upon the transaction under Ex.B.9 and support the plaintiff's specific plea that the said sale was sham and nominal and was not acted upon as a genuine sale transaction. Consequently, the subsequent mortgage created in favour of the first defendant Bank on the basis of the said transaction cannot prevail over the plaintiff's established title and possession. Accordingly, this Court holds that the suit property belongs to the plaintiff and not to Defendants 2 and 3. Hence, Issue No.1 is answered in favour of the plaintiff and against Defendants 2 and 3 and the first defendant Bank.

7) <u>Issue No 2 :-Whether this Court has got Jurisdiction to try this suit ?</u>

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The learned counsel for the first defendant No.1 argued that the transaction between Defendants 2 and 3 and the first defendant Bank is covered by the provisions of the SARFAESI Act and that, in view of Section 34 of the SARFAESI Act, the jurisdiction of the Civil Court is ousted and, therefore, this Court has no jurisdiction to entertain the present suit. Upon consideration of the said contention, the **Hon'ble Supreme Court in the case of CENTRAL BANK OF INDIA & ANR. V. SMT. PRABHA JAIN & ORS. [2025] 2 S.C.R. 263 : 2025 INSC 9** held that,

> **Para 18. Further, the SARFAESI Act is enacted essentially to provide a speedy mechanism for recovery of debts by banks and financial institutions. The SARFAESI Act has not been enacted for providing a mechanism for adjudicating upon the validity of documents or to determine questions of title finally. The DRT does not have the jurisdiction to grant a declaration with respect to the mortgage deed or the sale deed as sought by the Plaintiff. The jurisdiction to declare a sale deed or a mortgage deed being illegal is vested with the civil court under Section 9 of the Code of Civil Procedure. Therefore, the civil Court has the jurisdiction to finally adjudicate upon the first two reliefs.**

In the present case also, the plaintiff has approached this Court seeking declaration of his title over the suit property and challenging the very nature and validity of the transaction relied upon by the first defendant Bank, namely, **Ex.B.9 Sale Deed**, and the consequential mortgage and SARFAESI proceedings. The determination of whether Ex.B.9 is a genuine sale transaction or a sham and

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nominal transaction, and the consequent question of the plaintiff's title over the suit property, are matters requiring adjudication by the Civil Court. Therefore, merely because the first defendant Bank has initiated proceedings under the SARFAESI Act, the jurisdiction of this Court to decide the independent question of title and validity of the documents cannot be said to have been ousted under Section 34 of the SARFAESI Act. Hence, the contention of the first defendant that this Court has no jurisdiction to entertain the present suit cannot be accepted.

8) Issue No 3 :- Whether the Plaintiff is entitled to the decree as prayed for?

In view of the findings arrived at on Issue No.1, this Court has found that the plaintiff has established his title and possession over the suit property and that **Ex.B.9 Sale Deed relied upon by Defendants 2 and 3 is a sham and nominal transaction and was not acted upon**. The first defendant Bank claims its right only through the transaction entered into by Defendants 2 and 3 and the mortgage created pursuant thereto. When the very transaction under Ex.B.9 is found not to have created any valid right in favour of Defendants 2 and 3, the subsequent claim of the first defendant Bank founded upon the said transaction cannot prevail against the plaintiff's title. The plaintiff has therefore established his entitlement to the declaration sought for in respect of the suit property. Accordingly, **Issue No.3 is answered in favour of the plaintiff and against the defendants**, and the plaintiff is entitled to the decree as prayed for.

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9) <u>Issue No.4: -</u> To what other reliefs the parties are entitled to?

In view of the findings on the above issues and particularly the finding that the plaintiff has established his title and possession over the suit property, no other relief to the plaintiff.

10) In the result suit is decreed as prayed for. No cost.

Dictated by me directly to the Stenographer, typed by him, corrected and pronounced by me in the open court, on this the 13th day of August 2026.

Vijayakumar Chinnasamy
Digitally signed by Vijayakumar Chinnasamy

III Additional District & Sessions Judge,
Tiruvallur @ Poonamallee.

<u>Plaintiffs side Witness</u>:-

P.W.1 - Mr. Balamurugan,

<u>Plaintiffs side Exhibits</u>:-

Ex.A.1	Extract of Board Resolution dated 16.10.2021 (Original)
Ex.A.2	Construction Agreement with the Developer and the 1st Purchaser of the Flat dated 24.09.2005 (Photocopy)
Ex.A.3	Agreement for Sale between the Developer and the 1st Purchaser of the Flat dated 24.09.2005 (Photocopy)
Ex.A.4	Sale Deed for undivided share in favour of the 1st Purchaser dated 28.10.2005 (Certified copy)
Ex.A.5	Sale Deed for the Flat in favour of the Plaintiff's vendors dated 05.02.2009 (Certified Copy)
Ex.A.6	Sale Deed of the Flat in favour of Plaintiff dated 15.11.2012

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	(Certified Copy)
Ex.A.7	Property Tax Payment details (Online Copy)
Ex.A.8	Letter sent by the Plaintiff to the Defendant dated 18.03.2017 (Photocopy)
Ex.A.9	Possession notice affixed by the Defendant dated 12.02.2018 (Photocopy)
Ex.A.10	Letter sent by the Plaintiff to the Defendant dated 17.02.2018 (Photocopy)
Ex.A.11	Reply mail received from the Defendant dated 17.02.2018 (Online Copy)
Ex.A.12	Further letter sent by the Plaintiff to the Defendant dated 26.03.2018 (Photocopy)
Ex.A.13	Encumbrance Certificate showing transactions undertaken by the Developer of the property (Online Copy)
Ex.A.14	Electricity connection/ Payment Receipts (series) (Photocopy)
Ex.A.15	Valuation Report produced by the 1st Defendant dated 21.09.2004 (Photocopy)
Ex.A.16	Valuation Report produced by the 1st Defendant dated 12.02.2018 (Photocopy)
Ex.A.17	Mortgage Deed by owner of Flat S1 in Second Floor of the Complex dated 19.02.2014 (Photocopy)
Ex.A.18	Order of attachment passed in O.S. No. 1170 of 2010 attaching Flat No. F3, in the Second Floor of the Complex to show Flat in Second Floor are also numbered in series (Photocopy)

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Ex.A.19	Property Tax Assessment in the name of the Plaintiff and receipt (series) (Photocopy)
Ex.A.20	Electricity connection transfer in the name of the Plaintiff along with Tariff Card (Photocopy)
Ex.A.21	E auction notice issued by First Defendant (Online Copy)
Ex.A.22	Reply under RTI act from the Assistant Revenue Officer, Valasaravakkam, dated 24.06.2022 (Original)

Defendant side Witness :-

D.W.1 - Mr. Vivek Srivastava,

Defendant side Exhibits:-

Ex.B.1	Certified copy of the Loan Application dated 07.09.2004
Ex.B.2	Certified copy of the Title Deed Letter (Agreement to Deposit Title Deeds) dated 15.09.2004
Ex.B.3	Certified copy of the Promissory Note dated 15.09.2004
Ex.B.4	Certified copy of the Take Delivery Letter dated 15.09.2004
Ex.B.5	Certified copy of the Loan Agreement dated 15.09.2004
Ex.B.6	Certified copy of the Letter of Guarantee dated 15.09.2004
Ex.B.7	Certified copy of the Letter of Indemnity dated 15.09.2004
Ex.B.8	Certified copy of the Power of Attorney dated 15.09.2004
Ex.B.9	Certified copy of the Sale Deed dated 01.12.2004
Ex.B.10	Certified copy of the Construction Agreement dated 06.09.2004

Ex.B.11	Certified copy of the Letter Evidencing Deposit of Title Deed.
Ex.B.12	Certified copy of the Acknowledgment of Debt dated 25.05.2015
Ex.B.13	Certified copy of the Demand Notice dated 13.11.2017
Ex.B.14	Certified copy of the Statement of Accounts dated 23.05.2018

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III Additional District & Sessions Judge,
Tiruvallur @ Poonamallee.