

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
TENKASI**

Present: Thiu.S. Manojkumar, M.A., M.L.,
Additional District Judge, Tenkasi

Friday the 12th day of June 2026

Original Suit. No. 241/2019

(CNR No. TNTS-01-000778-2019)

Subbiah

.... Plaintiff

Vs.

1. Shanmugaiah Pandian (Died)
2. Ramasamy, S/o Nagu Reddiyar
3. Ramasamy, S/o Velsamy Nadar
4. Chilviya Anchi
5. Shanmugathai
6. Sermakani
7. Muthuraja
8. Umapathi

.... Defendants

(The legal heirs of deceased 1st Defendant impleaded as Defendants 5 to 8 as per order in I.A.No.11/2021 dated 14.11.2022 and the Plaint was amended as per order in I.A.No.15/2023 dated 11.04.2023)

This Suit came up before this Court on 04.06.2026 for final hearing, in the presence of Thiru.S.P.Esakkipandi, Advocate appeared for the Plaintiff and Thiru.S.Pandiarajan, Advocate appeared for the Defendants 1,3 and 4 and the Defendants 2 and 5 to 8 remained exparte and upon hearing the arguments on both sides and having stood over for consideration till this day this Court delivers the following.....

JUDGMENT

The Suit is instituted for the relief of Cancellation of Sale deed vide document No.380/2016 dated 28.01.2016 executed by the Plaintiff in

favour of deceased 1st Plaintiff relating to the 2nd schedule property and for Permanent Injunction against the legal heirs of 1st Defendant not to interfere with the Plaintiff's possession and enjoyment of the 2nd schedule property and for Permanent Injunction against the legal heirs of 1st Defendant not to alienate the 2nd schedule property to any other persons and for Cancellation of Sale deed vide document No.2821/2017 dated 22.06.2017 executed by the Plaintiff in favour of 4th Plaintiff relating to the 3rd schedule property and for Permanent Injunction against the Defendants 3 and 4 not to interfere with the Plaintiff's possession and enjoyment of the 3rd schedule property and for Permanent Injunction against the 4th Defendant not to alienate the 3rd schedule property to any other persons and for costs.

2. **The Plaintiff averments in brief are as follows :**

The Plaintiff 1st schedule property was initially purchased by the Plaintiff as vacant land under a registered sale deed dated 21.11.1988 and was assigned Patta No. 2523. The Plaintiff thereafter constructed a house thereon and obtained Door No. 32A, which he has been in peaceful possession and enjoyment of the Plaintiff. Subsequently, he constructed another house on the same property and obtained Door No. 32, for which he has been regularly paying property tax and water charges and has been in continuous enjoyment. The 2nd schedule property is a form and part of the 1st schedule property and the remaining extent of the property described in the 1st schedule, together with the 2nd schedule property constitutes the 3rd schedule property. The house bearing Door No. 32A is situated in the 3rd schedule property and the house bearing Door No.32 is situated in the 2nd schedule property. The Defendants have any right, title, or possession in the 2nd and 3rd schedule properties at any point of time. Due to the Plaintiff's wife suffering from ill health and requiring funds for medical expenses, the Plaintiff borrowed money from the 1st Defendant. At the

request of the 1st Defendant, who insisted that a sham and nominal sale deed be executed in respect of the 2nd schedule property, the Plaintiff borrowed a sum of Rs.3,00,000/- and executed a sham and nominal sale deed dated 28.01.2016 in favour of the 1st Defendant for the said property. The Plaintiff has also paid interest on the said loan up to January 2019. Thereafter, upon repayment of the loan amount, the Plaintiff requested the 1st Defendant to resale the 2nd schedule property in his favour. However, the 1st Defendant refused to do so. Instead, the 1st Defendant attempted to alienate the said property in favour of third parties and also threatened to evict the Plaintiff from the 2nd schedule property and to transfer the patta in his own name. Subsequently, since the Plaintiff again required funds, he borrowed a sum of Rs.4,00,000/- from the 2nd Defendant on 27.07.2016 and executed a mortgage deed in respect of the 3rd schedule property. At the time when the Plaintiff executed a mortgage in favour of the 2nd Defendant in respect of the 3rd schedule property, the Plaintiff had disclosed to the 2nd Defendant the fact that he had already executed a nominal sale deed in favour of the 1st Defendant in respect of the said 2nd schedule property. Due to pressure given by the 2nd Defendant for repayment, the Plaintiff was compelled to execute a nominal sale deed in respect of the 3rd schedule property in favour of the 4th Defendant for a consideration of Rs.9,00,000/- dated 28.01.2016. Thereafter, the loan amount of Rs.4,50,000/- due to the 2nd Defendant was discharged by the 4th Defendant. The sale deeds executed by the Plaintiff in favour of the Defendants 1 and 4 are only sham and nominal sale deeds. The 3rd Defendant is the husband of the 4th Defendant and he is working as a police constable. The Plaintiff has been paying interest on the amount of Rs.4,50,000/- borrowed from the 4th Defendant from March 2019 onwards. Thereafter, when the Plaintiff requested reconveyance of the property, the 4th Defendant did not respond. Further the Defendants 1 and 4 are

attempting to mutate the revenue records in their names. However, the possession and enjoyment of the 3rd schedule property continue to remain with the Plaintiff. The Defendants are interfering with the Plaintiff's peaceful possession and enjoyment of the said property. Hence the Plaintiff has filed the Suit.

3. The averments made in the Written Statement filed by the Defendants 1, 3 and 4 in brief are as follows:

The Suit is not maintainable. After receiving consideration in respect of the 2nd schedule property, the Plaintiff along with his children, namely Meena, Devi, Ramar, Laxmanan, Swornamani, Shanti, and Sumathi executed a sale deed in favour of the 1st Defendant on 28.01.2016. Since the Plaintiff's children have not been impleaded as parties to the present suit, the suit is bad for non-joinder of necessary parties. Further the Plaintiff has also handed over possession and enjoyment of the 2nd schedule property to the 1st Defendant. Similarly, with respect to the 3rd schedule property, the Plaintiff had initially created a mortgage in favour of the 2nd Defendant. Subsequently, the Plaintiff decided to sell the said property to the 4th Defendant and received a sale consideration of Rs.9,00,000/-. From the said amount, part of the amount was paid towards the principal and interest due under the mortgage to the 2nd Defendant, and the mortgage was redeemed on 22.06.2017. On the same day, the Plaintiff executed a sale deed in respect of the 3rd schedule property in favour of the 4th Defendant. Consequently, all revenue records in respect of the house situated in the 3rd schedule property have been mutated in the name of the 4th Defendant. Thereafter, the Plaintiff, along with his family members, sought permission from the 4th Defendant to reside in the house situated in the 3rd schedule property, and accordingly, an oral tenancy agreement was entered into on 30.10.2017. The Plaintiff has been residing in the said house along with his family by paying a monthly rent of Rs. 2,000/-. The Defendants 1 and 4

are the true owners of the schedule properties. The reliefs claimed by the Plaintiff are not maintainable. Hence the suit is to be dismissed.

4. After perusing the Plaint, Written Statement and Suit records, the following Issues are framed by this Court for consideration.

1. Whether the Plaintiff is entitled for the prayer of cancellation of sale deed 380/2016 in connection with 2nd schedule property of SRO, Alangulam as he prayed for ?
2. Whether the Plaintiff is entitled for the prayer of Permanent Injunction in connection with the 2nd schedule property as he prayed for ?
3. Whether the Plaintiff is entitled for the prayer of Permanent Injunction of not to alienate the 2nd schedule property as prayed for ?
4. Whether the Plaintiff is entitled for the prayer of cancellation of deed in connection with the 3rd schedule property of 2821/2017 SRO, Alangulam as he prayed for ?
5. Whether the Plaintiff is entitled for the prayer of Permanent Injunction in connection with the 3rd schedule property as he prayed for ?
6. Whether the Plaintiff is entitled for the prayer of Permanent Injunction of not to alienate the 3rd schedule property as he prayed for ?
- 7 To what other relief ?

5. In this Suit, on the side of the Plaintiff, PW1 is examined and Ex.A1 to Ex.A38 are marked. On the side of the Defendants 1, 3 and 4, DW1 is examined and Ex.B1 and Ex.B2 are marked.

6. **Issues No.1 to 3:-**

- * Whether the Plaintiff is entitled for the prayer of cancellation of sale deed 380/2016 in connection with 2nd schedule property of SRO, Alangulam as he prayed for ?
- * Whether the Plaintiff is entitled for the prayer of Permanent Injunction in connection with the 2nd schedule property as he prayed for ?
- * Whether the Plaintiff is entitled for the prayer of Permanent Injunction of not to alienate the 2nd schedule property as prayed for ?

In order to avoid repetition and overlapping of facts, the above issues are discussed together. The learned counsel for Plaintiff has argued that the Plaintiff is the absolute owner of the 1st schedule property, and subsequently he constructed residential houses bearing Door Nos.32A and 32 and has been in continuous and peaceful possession and enjoyment thereof. Further the learned Plaintiff's counsel has argued that owing to the ill-health of the Plaintiff's wife and consequent financial difficulties, the Plaintiff borrowed a sum of Rs.3,00,000/- from the 1st Defendant and at the insistence of the 1st Defendant, a sham and nominal sale deed dated 28.01.2016 was executed in respect of the 2nd schedule property merely as security for the loan transaction. The Plaintiff continued to pay interest on the said loan and, upon repayment, sought reconveyance of the property. However, the 1st Defendant refused to execute the same and instead attempted to deal with the property as owner. The Plaintiff subsequently borrowed a sum of Rs.4,00,000/- from the 2nd Defendant by mortgaging the 3rd schedule property. The Plaintiff had disclosed to the 2nd Defendant the earlier nominal transaction in favour of the 1st Defendant. Due to

pressure exerted by the 2nd Defendant for repayment, the Plaintiff was constrained to execute another nominal sale deed in favour of the 4th Defendant for a recited consideration of Rs.9,00,000/-. But, the 4th Defendant paid a sum of Rs.4,50,000/- to the 2nd Defendant and the mortgage debt was discharged. According to the Plaintiff, the sale deeds executed in favour of Defendants 1 and 4 were never intended to transfer title and were merely nominal documents executed as security for loans. Further he argued that the Plaintiff continues to be in possession and enjoyment of the suit properties and that the Defendants are attempting to interfere with his possession without any lawful right and hence, the Plaintiff is entitled to the reliefs sought in the suit.

7. Per contra, the learned counsel for the Defendants 1,3 and 4 would contend that the Plaintiff's claim is wholly untenable and the sale deed dated 28.01.2016 executed in favour of the 1st Defendant was a valid and genuine sale transaction supported by valuable consideration. The Plaintiff, along with his children, namely Meena, Devi, Ramar, Laxmanan, Swornamani, Shanti and Sumathi, executed the sale deed after receiving the sale consideration and delivered possession of the 2nd schedule property to the 1st Defendant. Further the Plaintiff had initially mortgaged the 3rd schedule property in favour of the 2nd Defendant. Thereafter, out of his own volition, the Plaintiff agreed to sell the property to the 4th Defendant for a sale consideration of Rs.9,00,000/-. From the sale proceeds, the mortgage debt together with accrued interest was fully discharged and the mortgage was redeemed on 22.06.2017. On the same date, the Plaintiff executed a registered sale deed in favour of the 4th Defendant, thereby conveying absolute title over the property. It is further argued that, following the purchase, the revenue records relating to the 3rd schedule property were duly transferred in the name of the 4th Defendant. Subsequently, the Plaintiff and his family sought permission to continue

residing in the property and an oral tenancy agreement was entered into on 30.10.2017 on a monthly rent of Rs.2,000/-. The Plaintiff has therefore been occupying the property only as a tenant and not as owner. Further the Defendants 1 and 4 are the lawful owners of the respective properties by virtue of valid registered sale deeds and that the Plaintiff cannot seek to avoid the consequences of those transactions by alleging that they were sham and nominal documents and hence the Suit is liable to be dismissed

8. Be that as it may, this court has given its anxious consideration to the arguments advanced by the Learned counsel for the parties to the Lis and has thoroughly considered the records, documents, and evidence adduced. Considering the facts and circumstances of the case, let us now proceed to adjudicate the issues framed and decide the matter.

9. It is the case of the Plaintiffs that the schedule properties belonged to himself through Ex.A1 sale deed dated 25.01.2012 and he constructed two houses in it and he claims to be in possession of the suit property. He contends that the sale deeds dated 28.01.2016 marked as Ex.A9 in favour of the 1st Defendant and the subsequent sale deed in favour of the 4th Defendant which has been marked as Ex.A11 dated 22.06.2017 were only sham and nominal documents executed as security for loan transactions and were never intended to transfer title. Despite repayment of the loans, the Defendants refused to reconvey the property and are now attempting to mutate revenue records and interfere with the Plaintiff's possession. Therefore, the Plaintiff seeks declaration of his rights and permanent injunction.

10. Section 101 of the Indian Evidence Act provides that whoever desires the court to give any judgment regarding any right or liability that is "dependent on the existence of facts which he asserts, must prove that those facts exist." On the other hand, Section 102 of the Indian Evidence Act states that "the burden of proof in a suit or proceeding lies on that person

who would fail if no evidence at all were given on either side.” It is in fact a natural corollary of Section 101 that states that anybody desirous of proving a fact must prove that fact himself before the court. If neither the desirous person nor the opposite party prove that particular fact, then the case of the desirous person dependent on the existence of that fact would fall apart. This could also be understood by a perusal of Section 103 of the Indian Evidence Act that stipulates that “the burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.” The onus of proof in a case continuously shifts from the Plaintiff to the defendant and vice versa, but this shifting of onus would happen in a Suit for Title and Possession only when the Plaintiff is able to create a high degree of probability in their favour by adducing appropriate evidence.

11. Keeping the aforementioned first principles of Law in mind, it has to be decided whether the Plaintiffs have proved their title. On careful perusal of case records, it is seen that the Suit schedule properties belonged to the Plaintiff under Ex.A1 Sale deed dated 25.01.2012. During the pendency of the suit, the 1st Defendant passed away, and consequently, his legal heirs were impleaded as Defendants 5 to 8 The case of the Plaintiff is that he had borrowed a sum of Rs.1,50,000/- from the 1st Defendant and, as security for the said loan, executed Ex.A9 Sale Deed in favour of the 1st Defendant in respect of the 2nd schedule property, nominally showing a consideration of Rs.3,00,000/-. The Plaintiff further contends that, having subsequently discharged the entire loan amount, he requested the 1st Defendant to reconvey the 2nd schedule property. However, the 1st Defendant allegedly refused to execute such reconveyance. On perusal of the records, it is evident that, in respect of the 2nd schedule

property, one of the legal heirs of the Plaintiff, namely Devi, was conveyed the property under a Sale Deed dated 23.07.2021 executed by the 7th Defendant, who is one of the legal heirs of the deceased 1st Defendant. The said document has been marked as Ex.B.2 on the side of the Defendants. The learned counsel for Plaintiff has also fairly conceded that the legal heirs of 2nd Defendant have reconveyed the 2nd schedule property to the daughter of Plaintiff since the outstanding dues were paid by the Plaintiff, as per the actual agreement between the Plaintiff and 2nd Defendant at the time of obtaining loan amount. Furthermore, when the Plaintiff was examined as PW1, he admitted the said fact during his cross examination. The relevant portion of his evidence is extracted as follows:

"எனக்கு எழுதப்பட்டிருக்க தெரியும். எனக்கு 7 மக்கள் உள்ளார்கள். மீனா, தேவி, ராமர், லட்சுமணன், சொர்ணமணி, சுமதி, சாந்தி ஆகியோர் எனது மக்கள் ஆவார்கள். நானும், எனது மக்களும் சேர்ந்துதான் இந்த வழக்கின் 1ம் பிரதிவாதியான சண்முகையா பாண்டியன் என்பவருக்கு வா.சா.ஆ.9 ஆவணத்தின்படி கிரையம் செய்துகொடுத்தோம் என்றால் சரிதான். மேற்படி கிரைய ஆவணத்தில் குறிப்பிடப்பட்டுள்ள விவரங்கள் சரியானவைதானா என்றால் நான் ஒன்றரை லட்சம் ரூபாய் கடன் வாங்கிக்கொண்டு அதற்கு இருமடங்காக ரூபாய் 3 லட்சம் என்று விவரம் கூறி மேற்படி ஆவணம் எழுதப்பட்டது. மேற்படி 1ம் பிரதிவாதி காலமாகிவிட்டார் என்றால் சரிதான். 5ம் பிரதிவாதி சண்முகத்தாய் 1ம் பிரதிவாதியின் மனைவி என்றால் சரிதான். 6, 7, 8 பிரதிவாதிகள் அவரது மக்கள் என்றால் சரிதான். 7ம் பிரதிவாதியிடமிருந்து எனது மகள் தேவி என்பவர் கடந்த 23.07.2021ல் ஆலங்குளம் சார்பதிவகத்தில் பதிவுபெற்ற கிரைய பத்திர எண். 3607/2021ன் மூலமாக இந்த வழக்கிடை காலத்தில் கிரையம் எழுதி பெற்றுள்ளார் என்றால் சரிதான். "

Therefore, in view of the aforesaid evidence, wherein the Plaintiff himself has admitted that the 7th Defendant, being one of the legal heirs of the deceased 1st Defendant, had executed a sale deed in favour of the Plaintiff's daughter in respect of the 2nd Schedule property, and further considering that possession and enjoyment of the 2nd Schedule property was with the

Plaintiff, this Court holds that the reliefs sought by the Plaintiff in relation to the 2nd Schedule property are no longer sustainable. Therefore, this Court concludes that relating to the 2nd schedule property, the Suit is liable to be dismissed. Accordingly Issues No.1 to 3 are answered.

12. **Issues No.4 to 6:-**

- * Whether the Plaintiff is entitled for the prayer of cancellation of deed in connection with the 3rd schedule property of 2821/2017 SRO, Alangulam as he prayed for ?
- * Whether the Plaintiff is entitled for the prayer of Permanent Injunction in connection with the 3rd schedule property as he prayed for ?
- * Whether the Plaintiff is entitled for the prayer of Permanent Injunction of not to alienate the 3rd schedule property as he prayed for ?

It is the case of the Plaintiff that, owing to financial difficulties, he had previously borrowed money from the 1st Defendant. Subsequently, when he again faced a financial requirement, he approached the 2nd Defendant and informed him that he had already obtained a loan from the 1st Defendant and, as security for the said loan, had executed a sale deed in respect of the 2nd schedule property. The Plaintiff further contends that he mortgaged the 3rd schedule property which includes 2nd schedule property in it, in favour of the 2nd Defendant and obtained a loan of Rs.4,00,000/-. Thereafter, since the Plaintiff was unable to pay interest on the said loan, the 2nd Defendant pressurized him to redeem the mortgage. When the Plaintiff expressed his willingness to make arrangements for redeeming the mortgage, the 2nd Defendant introduced Defendants 3 and 4 to him. Through such acquittance, the Plaintiff executed a sale deed in respect of the 3rd schedule property in favour of the 4th Defendant and the said sale deed was only a sham and nominal sale deed and not intended to convey

absolute title. Further he had been paying interest in respect of the aforesaid amount and, although he was ready and willing to repay the sale consideration and obtain a reconveyance of the property, the 4th Defendant refused to do so. It is also alleged that the 4th Defendant has mutated the revenue records pertaining to the 3rd schedule property in her name and is further attempting to dispossess the Plaintiff from the said property.

13. It is settled principle of law that no transfer of title takes place under a sham and nominal deed as it is non-est in the eyes of law. But when a person admits the execution of sale deed, but claims it to be sham and nominal deed and hence no legal transfer of title took place under the said deed, is bound to prove the same by reliable evidence. Such a burden rests on the person alleging the transaction to be sham and nominal. In the case on hand, the Plaintiff has admitted that Ex.A11 sale deed dated 22.06.2017 was executed and registered in favour of the 4th Defendant. Therefore, the burden of proving it to be sham and nominal heavily lies on the Plaintiff. In support of his contention that Ex.A4 is a sham and nominal one, the Plaintiff has contended that even after execution of the said deed, the possession of property was not handed over to the 4th Defendant, but was retained by the Plaintiff since no amount was paid as consideration by the 4th Defendant for the said transaction.

14. At this juncture, it is significant to point out that the mortgage deed executed by the Plaintiff in favour of the 2nd Defendant in respect of the 3rd schedule property has been marked as Ex.A10. Further, the SRO copy of sale deed executed by the Plaintiff in favour of the 4th Defendant with respect to the 3rd schedule property has been marked as Ex.A11 on the side of the Plaintiff. Eventhough the sale deed concerning the 3rd schedule property was executed in the year 2017, it has been contended on behalf of the Plaintiff that possession and enjoyment of the 3rd schedule property

continued to remain with the Plaintiff even thereafter. On perusal of the said argument, it is evident from Ex.A3, Ex.A5, and Ex.A7, namely the House tax receipts, Water charge receipts, and Electricity charge receipts pertaining to the years 2018 and 2019 relating to the house situated in the 3rd schedule property, that even after the execution of the sale deed marked as Ex.A11, possession and enjoyment of the 3rd schedule property continued to remain with the Plaintiff. It is also pertinent to note that on the date of conveyance of 3rd schedule property, a portion of the said property i.e 2nd schedule was already sold to the 1st Defendant and as such the Plaintiff had no rights over the 2nd schedule to sell it. A perusal of case records would disclose that the 4th Defendant was very well aware of the said transaction which could be inferred from the contents of Written statement filed by the Defendants. Apart from the above, the 3rd Defendant who was examined as DW1 has deposed during his cross examination that he did not pay the redemption amount to the 2nd Defendant Ramasamy but had only paid the said amount to the Plaintiff. This testimony of the DW1 would establish that the 3rd Defendant has only paid the amount to the Plaintiff in order to redeem the mortgage in favour of 2nd Defendant. Thus, it is held that no sale consideration was paid by the 3rd Defendant or 4th Defendant to the Plaintiff.

15. Further the Plaintiff has contended that, while the Plaintiff had been regularly paying interest on the loan amount obtained from the 4th Defendant, and eventhough the Plaintiff was ready and willing to repay the principal amount and obtain a reconveyance of the property, the 4th Defendant refused to do so. It has further been alleged that the 4th Defendant has mutated the revenue records pertaining to the 3rd schedule Property in her name despite the objections of Plaintiff and is also attempting to dispossess the Plaintiff from the said property. It is the case of the Plaintiff that the sale transaction relating to the 3rd schedule Property

was only sham and nominal in nature and that, therefore, the 3rd Defendant is under an obligation to execute a deed of reconveyance in favour of the Plaintiff in respect of the 3rd schedule Property. This Court is of the view that the aforesaid contention is acceptable, because, the mortgage created by the Plaintiff in favour of the 2nd Defendant was discharged by the 2nd Defendant on the very same day, i.e on 22.06.2017, on which the 4th Defendant obtained the Sale Deed marked as Ex.A.11 from the Plaintiff. This fact is clearly established by Ex.A12, the Mortgage Discharge Receipt. Further, it has also been admitted on the side of the Defendants that the 2nd Defendant had accepted the mortgage over the 3rd schedule Property with the knowledge of the fact that the Plaintiff had already executed a sale deed in favour of the 1st Defendant in respect of the 2nd schedule Property. Moreover, the 3rd Defendant is working in the Police Department and contention that a sale deed was obtained in the name of his wife in respect of the 3rd schedule property despite being aware that a sale transaction had already been effected in respect of the portion of the said property is, suspicious in nature. Eventhough the Defendants have stated that the Plaintiff and the 4th Defendant had entered into an oral tenancy arrangement permitting the Plaintiff to continue residing in the house situated in the 3rd schedule property, the existence of such oral agreement has not been established through any independent oral evidence on the side of the Defendants. Likewise, when the 4th Defendant attempted to have the revenue records mutated in her favour, the Plaintiff objected to the same, which is evident from Ex.A19 to Ex.A28, consisting of the objections submitted by the Plaintiff before the Revenue Authorities and the Registration Department. It is also clear from Ex.A13 to Ex.A18, namely the police complaint receipts and summons relating to police proceedings, that the Plaintiff initiated police action against Defendants 2 to 4 on account of threats and intimidation allegedly extended by the 4th Defendant.

16. In this case, the DW1 is the 3rd Defendant, who is the husband of the 4th Defendant. Insofar as the 3rd schedule property is concerned, it is the 4th Defendant who is alleged to have paid the sale consideration to the Plaintiff. The sale deed marked as Ex.A11 was executed in the name of the 4th Defendant. In such circumstances, the 4th Defendant is the competent person to depose regarding the transactions forming in this Suit. However, the 4th Defendant did not enter the witness box and did not give evidence before the Court which amount to suppression of best evidence. The 4th Defendant who claims to have purchased the property for consideration has not chosen to examine of the attesting witness of Ex.A11 sale deed nor the other Defendants to show that the sale deed was an independent transaction and not a security document for the loan. Be that as it may, as to whether the 4th Defendant has paid any consideration for the purchase of 3rd schedule property, the evidence of 3rd Defendant in the cross examination itself clearly shows the sale deed is nothing but sham and nominal. It is necessary to consider the following testimony of DW1 with regard to the aforesaid circumstances. The relevant portion of the cross examination of DW1 is as follows:

"கடந்த 27.07.2016 அன்று பிராது 3 ம் தபசில் சொத்து, வா.சா.ஆ.10 ஆவணம் மூலம் வாதி, 2 ம் பிரதிவாதிக்கு அடமான ஆவணம் எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான். அந்த அடமான ஆவணத்தில் 3 ம் தபசில் சொத்துக்கள் முழுமையாக காட்டப்பட்டுள்ளன என்றால் சரிதான். 3 ம் தபசில் சொத்தின் மொத்த மதிப்பு ரூ.4,20,000/- என குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். ஒரே தேதியில்தான் மேற்படி அடமான ஆவணம் செல்லடிக்கப்பட்டு அதே தேதியில் வாதி எனது பெயருக்கு கிரைய ஆவணம் எழுதிக்கொடுத்ததாக காணப்படுகிறது என்றால் சரிதான். வா.சா.ஆ.11 கிரைய ஆவணத்தில் சொத்தின் மதிப்பு ரூ.12,80,000/- என குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். ஆனால் அதன் கிரைய மதிப்பு ரூ.9,00,000/- என குறைவாக காட்டப்பட்டுள்ளது என்றால் சரிதான். மேற்படி சொத்தின் மதிப்பு குறைவாக காட்டப்பட்டது

சம்பந்தமாக எனக்கு தெரியாது என்றால் சரிதான்."

"என் மனைவியின் கிரைய ஆவணத்தில் கையொப்பமிட்ட சாட்சிகளை யார் அழைத்துவந்தார்கள் என்பது எனக்கு நியாயகமில்லை. அடமான ஆவணம் செல்லடிக்கப்பட்டபோது இருந்த சாட்சிகள்தான் மேற்படி கிரைய ஆவணத்திலும் சாட்சி கையொப்பமிட்டுள்ளார்கள் என்றால் சரிதான். மேற்படி சாட்சிகள் யார் என்பது எனக்கு நினைவில்லை. 3 ம் தபசில் சொத்திற்கு செல்வதற்கு எத்தனை வழிகள் உள்ளன என்றால் தற்போது எனக்கு நியாயகமில்லை. 3 ம் தபசில் சொத்திற்கு முன்புறம் மட்டும் சிமென்ட் ரோடு உள்ளது, மற்ற பாதைகள் மண்பாதைகளாகும். வா.சா.ஆ.11 கிரைய ஆவணத்தில் கதவு எண்.32 கொண்ட வீடு உள்ளதாக காட்டப்பட்டுள்ளது என்றால் சரிதான். மேற்படி வீடு தபசில் சொத்தில் எந்த திசையில் அமைந்துள்ளது என்ற விவரம் எனக்கு தெரியாது. மேற்படி வீட்டின் பட்டா யார் பெயரில் உள்ளது என்றால் அது எனக்கு நியாயகமில்லை. கிரையத்தின்போது அந்த ஆவணத்தை பார்த்தேனா என்பது எனக்கு நியாயகமில்லை. 3 ம் தபசில் சொத்தில் எத்தனை சதுர அடியில் மேற்படி கதவு எண்.32 வீடு அமைந்துள்ளது என்ற விவரம் எனக்கு தெரியாது என்றால் சரிதான். "

"வாதி குடியிருக்கும் வீட்டில் எத்தனை அறைகள் உள்ளன என்ற விவரம் எனக்கு தெரியாது. பொதுவாக ஒரு இடத்தை கிரையம் முடிக்கும்போது, நேரில் சென்று பார்த்து அதன் அமைப்பு மற்றும் வீடு எத்தனை சதுர அடியில் கட்டப்பட்டுள்ளது, காம்பவுண்ட் சுவர் உள்ளதா போன்ற விவரங்களை பார்த்துதான் கிரையம் முடிப்பார்கள் என்றால் சரிதான். ஆனால் நான் வில்லங்கம் பார்க்காமல் இடத்தையும் பார்க்காமல் கிரையம் முடித்துவிட்டேன் என்றால் இந்த விவரங்கள் அப்போது எனக்கு தெரியாது. எனக்கு பாத்தியப்பட்ட மற்றொரு வீட்டை விற்பனை செய்ததன் மூலம் என் கையில் ரூ.9 லட்சம் பணம் இருந்தது. அப்படி ஒரு வீடு இருந்ததாகவோ, அதனை நான் விற்பனை செய்ததாகவோ காட்டக்கூடிய எந்தவொரு ஆவணத்தையும் நான் தாக்கல் செய்யவில்லை என்றால் சரிதான். என்னுடைய எதிர்வழக்குரையிலும், நிரூபண வாக்குமூலத்திலும் குறிப்பிட்டுள்ளபடி, 30.10.2017 ம் தேதியில் எனது மனைவியும் வாதியும் ஒரு வாய்மொழி வாடகை ஒப்பந்தம் போட்டுக்கொண்டதற்கு எந்த ஆதரவும் இல்லை என்றால் சரிதான். இதுவரை வாதி எங்களுக்கு வாடகை செலுத்திவந்தார் என்பதை காட்டக்கூடிய எந்தவொரு ஆவணமும் தாக்கல் செய்யப்படவில்லை என்றால் சரிதான். "

"1ம் பிரதிவாதி சண்முகையாபாண்டியனுக்கு வாதி பிராது 2ம் தபசில் சொத்தை பொறுத்து ஒரு கிரையம் எழுதி கொடுத்த விவரம் எனக்கு தெரியுமா என்றால் எனக்கு தெரியாது. 1ம் பிரதிவாதி இறந்தபிறகு அவரது வாரிசுகள் வாதியின் மகளுக்கு எழுதிக்கொடுத்த கிரைய ஆவணத்தின் சார்பதிவாளர் நகலை பி.வா.சா.ஆ. 2 ஆக தாக்கல் செய்துள்ளேன் என்றால் சரிதான். இவ்வழக்கு தாக்கல் செய்வதற்கு முன்னரே எனக்கு மேற்படி பி.வா.சா.ஆ. 2 ஆவணம் குறித்து தெரியும் என்றால் சரிதான். எனவே மேற்படி கிரைய ஆவணத்தை ரத்து செய்ய எதிர் கோருரிமை எதுவும் செய்யவில்லை என்றால் சரிதான். வா.சா.ஆ. 9 மற்றும் பி.வா.சா.ஆ.2 ஆவணங்களை ரத்து செய்வதற்கு நான் தனிப்பட்ட முறையில் வழக்கு தாக்கல் செய்யவில்லை என்றால் சரிதான். மேற்படி 2 ஆவணங்களை பொறுத்து நான் இதுவரை எந்த ஆட்சேபனையும் தெரிவிக்கவில்லை என்றால் சரிதான். நான் எனது மனைவியின் மூலமாக வாதிக்கு வட்டிக்கு பணம் கொடுத்து பெயரளவில் கிரையம் வாங்கிய காரணத்தினால்தான் மேற்படி வா.சா.ஆ. 9 மற்றும் பி.வா.சா.ஆ.2 ஆவணங்களை ரத்து செய்வதற்கு இன்று வரை நான் எவ்வித நடவடிக்கையும் எடுக்கவில்லை என்றால் சரியல்ல. "

"பிராது 1ம் தபசில் சொத்து, வாதி சுப்பையாவுக்கு வா.சா.ஆ.1 கிரைய ஆவணத்தின் மூலம் பாத்தியப்பட்டது என்றால் சரிதான். அந்த ஆவணத்தின் அடிப்படையில் வாதியை தவிர வேறு யாருக்கும் பிராது 1ம் தபசில் சொத்து பாத்தியப்பட்டது கிடையாது என்றால் சரிதான். பிராது 1ம் தபசில் சொத்தில் வாதி 32, 32 ஏ என இரண்டு வீடுகளை கட்டியிருந்தார் என்றால் சரிதான். வாதியின் பெயரில்தான் மேற்படி இடத்தின் பட்டா இருந்து வந்தது என்றால் சரிதான். மேற்படி இரண்டு வீடுகளின் விஸ்தீரணம் என்ன என்பது பற்றிய விவரம் எனக்கு தெரியாது. மேற்படி இரண்டு வீடுகளிலும் எத்தனை மின் இணைப்புகள் உள்ளன என்றால் அதுபற்றி எனக்கு தெரியாது. "

"வாதி வழக்கை தாக்கல் செய்தபோது என்னென்ன ஆவணங்களை தாக்கல் செய்துள்ளார் என்ற விவரம் எனக்கு தெரியும். அவற்றை நான் பார்த்துள்ளேன். பிராது 1, 2 தபசில் சொத்துக்களின் விஸ்தீரணம் எவ்வளவு என்று எனக்கு தெரியாது. மேற்படி 2 தபசில் சொத்துக்களின் எல்லை மால்களும் எனக்கு தெரியாது என்றால் சரிதான். வாதிக்கு எத்தனை வாரிசுகள் என்ற விவரம் எனக்கு தெரியாது. 1ம் பிரதிவாதி சண்முகையா பாண்டியனை

எனக்கு தெரியாது. அவருக்கு வாதி கிரையம் எழுதி கொடுத்த விவரம் எனக்கு தெரியாது. வாதி, 1ம் பிரதிவாதிக்கு கதவு எண். 32 அல்லது 32 ஏ எழுதிக்கொடுத்துள்ளாரா என்ற விவரம் எனக்கு தெரியாது. நான் தாக்கல் செய்துள்ள எதிர்வழக்குரை மற்றும் நிரூபண வாக்குமூலத்தின் பாரா 2ல் 1ம் பிரதிவாதி கிரையம் நற்கிரையம் என்றும், பிரதிபிரயோஜனத்தின் மூலம் பெறப்பட்டுள்ளது என்றும் சொல்லியுள்ள சங்கதி தவறு என்றால் சரிதான்."

"1ம் பிரதிவாதிக்கு வாதி எழுதிக்கொடுத்த கிரைய ஆவணம் தற்போது வாதியிடம் இருந்து வருகிறது என்றால் அதுபற்றி எனக்கு தெரியாது. 1ம் பிரதிவாதிக்கு வாதி எழுதிக்கொடுத்த கிரைய ஆவணம் யாரிடம் உள்ளது என்று எனக்கு தெரியாது. 1ம் பிரதிவாதியிடம் எவ்வளவு தொகை வாதி கடன் பெற்று எழுதி கொடுத்துள்ளார் என்ற விவரம் எனக்கு தெரியாது. 1ம் பிரதிவாதியின் பெயரில் பிராது 2ம் தபசில் சொத்திற்கு வீட்டு தீர்வை உள்ள விவரம் எதுவும் எனக்கு தெரியாது. 1ம் பிரதிவாதிக்கு எழுதிக்கொடுத்த 2ம் தபசில் சொத்தில் வழக்கிற்கு முன்பும், பின்பும் தற்போது வரை வாதியும் அவரது வாரிசுகளுமே குடியிருந்து வருகிறார்கள் என்றால் சரிதான். 1ம் பிரதிவாதிக்கு எழுதி கொடுத்த கிரைய ஆவணத்தின் அடிப்படையில் அனுபவம் எதுவும் மாற்றம் செய்யப்படவில்லை என்றால் சரிதான்."

A mere perusal of the above testimony of DW1 is sufficient enough to establish that the case of Defendants is built over a pile of falsehood.

17. The 3rd Defendant who is the husband of 4th Defendant and a responsible police official, does not know the available pathways leading to the property, the direction in which it is situated nor the extent of the said house nor the boundaries of the schedule property. This conduct of the 3rd Defendant shows ignorance to the nature of property which indicate that they never intended to purchase the property for any consideration. The normal conduct of the human being would make reasonable enquiry, when he or she intends to purchase a property. In this case, the 3rd Defendant, a police official has deposed that he did not verify the encumbrance

certificate before purchasing the property since he was not aware of those procedures is nothing but a blatant lie made before this Court. Furthermore, the contention of 3rd and 4th Defendants that the Plaintiff was only in the property as a tenant is unbelievable and also not supported by any document. Thus, it is held that the Plaintiff has in fact probablised the case that the sale deed Ex.A11 is only a security towards the loan and that the sale deed is not supported by any consideration. Taking advantage of the financial crisis of the Plaintiff, the 3rd Defendant and 4th Defendant who were in dominant position at the relevant point of time by lending the money and obtaining sale deeds in their favour. Upon a careful consideration of the aforesaid circumstances, together with the testimony of DW1, this Court is of the view that the sale deed marked as Ex.A11 was merely a sham and nominal sale deed executed as security for a loan transaction and not an outright sale intended to transfer absolute ownership.

18. Nevertheless, in his evidence, the Plaintiff has admitted that he received a sum of Rs.4,00,000/- from the 4th Defendant and that an additional sum of Rs.50,000/- was paid towards the 2nd Defendant by the 4th Defendant. The Plaintiff has further contended that Ex.A11 sale deed was executed for a consideration of Rs.9,00,000/-, which is nearly double the amount actually received by him. Therefore, eventhough the Plaintiff has successfully established through proper documentary evidence that the sale deed marked as Ex.A11 relating to the 3rd Schedule property was merely a nominal transaction, the Plaintiff is duty bound to pay a sum of Rs.4,50,000/- to the 4th Defendant. In view of the said admission, this Court holds that the relief sought by the Plaintiff for cancellation of the sale deed relating to the 3rd schedule property, together with the other consequential reliefs claimed in the suit, can be granted only upon the Plaintiff repaying the aforesaid sum of Rs.4,50,000/- together with interest

to the 4th Defendant. Accordingly, this Court concludes that, subject to such repayment with interest by the Plaintiff to the 4th Defendant, the Plaintiff shall be entitled to the relief of cancellation of the sale deed pertaining to the 3rd schedule property and the other ancillary reliefs prayed for in the suit. Accordingly Issues No.4 to 6 are answered.

19. **Issue No.7:-**

In lieu of the answers arrived in the above issues, this Court concludes that the Plaintiff is entitled to the relief of cancellation of the document No.2821/2017 dated 22.06.2017 relating to the 3rd schedule property and to the relief of Permanent injunction against the Defendants 3 and 4 subject to the condition that the Plaintiff shall deposit a sum of Rs.4,50,000/- together with interest thereon at 18% per annum. Accordingly Issue No.7 is answered.

In the result,

(1) this Suit is partly decreed with costs.

(2) the Plaintiff is entitled to get the relief of Cancellation of Sale Deed vide document No.2821/2017 dated 22.06.2017 pertaining to the 3rd schedule property and the relief of Permanent injunction against the Defendants 3 and 4 not to interfere with the Plaintiff's possession and enjoyment of the 3rd schedule property and for Permanent Injunction against the 4th Defendant not to alienate the 3rd schedule property to any other persons subject to the condition that the Plaintiff shall deposit a sum of Rs.4,50,000/- in this Court together with interest at 18% per annum from March 2019 within one month from the date of this decree. Failing such payment within the said period, the Suit shall stand dismissed regarding the 3rd schedule property.

(3) the suit is dismissed regarding the reliefs claimed in respect of 2nd schedule property.

Dictated to Steno typist, typed directly by her in Computer.
Corrected and pronounced by this Court, on this the 12th day of June 2026.

Additional District Judge,
Tenkasi

Witness examined on the side of Plaintiff :-

P.W.1 Mr. Subbiah(Plaintiff)

Exhibits marked on the side of Plaintiff:-

Ex.A1	25.01.2012	SRO copy of Sale deed in favour of Plaintiff Subbiah executed by Arulvedhamani
Ex.A2	-	Downloaded copy of Patta No.2523 stands in the name of Plaintiff and Silvia Ansi
Ex.A3	-	House tax receipts (2 numbers) relating to the house situated in the 3 rd schedule property
Ex.A4	-	House tax receipts (5 numbers) relating to the house situated in the 2 nd schedule property
Ex.A5	-	Water tax receipts (5 numbers) relating to the house situated in the 3 rd schedule property
Ex.A6	-	Water tax receipts (8 numbers) relating to the house situated in the 2 nd schedule property

Ex.A7	-	Electricity card relating to the house situated in the 3 rd schedule property stands in the name Plaintiff subbiah
Ex.A8	-	Electricity charge receipts (2 numbers) relating to the house situated in the 2 nd schedule property
Ex.A9	28.01.2016	SRO copy of Sale deed in favour of 1 st Defendant executed by the Plaintiff regarding the 2 nd schedule property
Ex.A10	27.07.2016	SRO copy of Mortgage deed in favour of 2 nd Defendant executed by the Plaintiff regarding the 3 rd schedule property
Ex.A11	22.06.2017	SRO copy of Sale deed in favour of 4 th Defendant executed by the Plaintiff regarding the 3 rd schedule property
Ex.A12	22.06.2017	SRO copy of Madeover receipt executed by the 2 nd Defendant
Ex.A13	03.05.2019	Receipt of Police complaint given by the Plaintiff before the Alangulam Police station against the Defendants 2 to 4
Ex.A14	03.05.2019	Receipt of Police complaint given by the Plaintiff before the Superintendent of Police, Tirunelveli against the Defendants 2 to 4
Ex.A15	03.05.2019	Copy of complaint given by the Plaintiff before the District Collector, Tirunelveli against the Defendants 2 to 4
Ex.A16	03.05.2019	Receipt of Police complaint given by the Plaintiff before the Deputy Superintendent of Police, Tirunelveli against the Defendants 2 to 4
Ex.A17	-	Acknowledgment receipts 2 numbers

Ex.A18	15.05.2019	Copy of Summon sent by the Inspector of Police, Alangulam Police station
Ex.A19	27.03.2019	Copy of objection letter for name transfer regarding the 2 nd and 3 rd schedule properties
Ex.A20	24.04.2019	Copy of Memorandum issued by the Executive Officer, Town Panchayat, Alangulam
Ex.A21	27.03.2019	Copy of objection letter for name transfer regarding the 2 nd and 3 rd schedule properties
Ex.A22	27.03.2019	Copy of objection letter for name transfer of Patta regarding the 2 nd and 3 rd schedule properties
Ex.A23	27.03.2019	Copy of objection letter for name transfer of Patta regarding the 2 nd and 3 rd schedule properties
Ex.A24	27.03.2019	Copy of objection letter given by the Plaintiff to the Sub-registrar, Alangulam
Ex.A25	27.03.2019	Copy of objection letter given by the Plaintiff to the District registrar, Tenkasi
Ex.A26	27.03.2019	Copy of objection letter given by the Plaintiff to the Register General, Department of Registration, Chennai
Ex.A27	28.03.2019	Proceedings of Sub-registrar, Alangulam
Ex.A28	27.03.2019	Copy of objection letter given by the Plaintiff to the Junior Engineer, Tamilnadu Electricity Board, Alangulam
Ex.A29	07.06.2019	Copy of Caveat O.P. No. /2019 on the file of District Court, Tirunelveli
Ex.A30	07.06.2019	Copy of Caveat O.P. No.193/2019 on the file of Principal Sub Court, Tenkasi
Ex.A31	07.06.2019	Copy of Caveat O.P. No.163/2019 on the file of Principal District Munsif Court, Tenkasi

Ex.A32	10.06.2019	Acknowledgment cards 3 numbers for receiving the caveat O.P. petitions by the 4 th Defendant
Ex.A33	-	House tax receipts (5 numbers) regarding the house door No.32 standing in the name of Plaintiff
Ex.A34	-	House tax receipts (4 numbers) regarding the house door No.32A standing in the name of Plaintiff
Ex.A35	-	Water tax receipts (21 numbers) regarding the house door No.32 standing in the name of Plaintiff
Ex.A36	-	Water tax receipts (31 numbers) regarding the house door No.32A standing in the name of Plaintiff
Ex.A37	-	Electricity charge receipts (9 numbers)
Ex.A38	-	Xerox copy of Aadhaar card of Plaintiff

Witness examined on the side of Defendants 1,3 and 4:-

DW1 Mr. Ramasamy (3rd Defendant)

Exhibits marked on the side of Defendants 1, 3 and 4 :-

Ex.B1	22.06.2017	SRO copy of Sale deed executed by Plaintiff in favour of 4 th Defendant
Ex.B2	23.07.2021	SRO Copy of Sale deed executed by 7 th Defendant Muthuraja in favour of Devi

Additional District Judge,
Tenkasi

Additional District Court (FTC),
Tenkasi
O.S.No.241/2019
Dated:12.06.2026
Draft Judgment.