

SA No.250 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved : 13/03/2026

Date of Pronounced : 02/04/2026

CORAM:

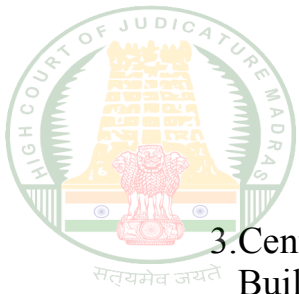
THE HONOURABLE MS.JUSTICE R.POORNIMA

SA No.250 of 2003
and
CMP No.2341 of 2003

1.Leelabai (Died) : 1st Appellant/Respondent/
1st Defendant
2.V.Subramanian
3.S.Uma
4.S.Geetha
5.Hari Kumar : Appellants 2 to 5
(Appellants 2 to 6 are brought
on record as LR.s of the deceased
sole appellant, vide court order,
dated 28/08/2019 made in
CMP No.7847 and 7848 of 2019
in SA No.250 of 2003)

Vs.

1.S.Kandhamani : 1st Respondent/Appellant/
Plaintiff
2.The President,
The Central Govt. Employees
Co-operative Housing Society,
No.O.2186, Tirunelveli,
Office cum C.S.Illam, No.15,
Ketalai Street, Vaiyapuram Nagar,
Tirunelveli-6.



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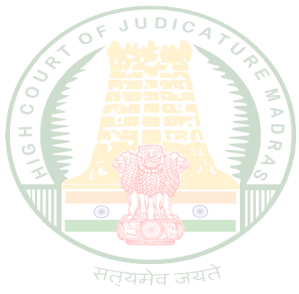
3. Central Govt. Employee Co-operative
Building Society Ltd.,
No.O.2186, Tirunelveli,
Office cum C.S.Illam at
No.15, Katalai Street,
Vaiyapuri Nagar,
Tirunelveli-6.

PRAYER: This Second Appeal is filed under Section 100 of the Civil Procedure Code, against the judgment and decree of the II Additional Sub Judge, Tirunelveli, made in AS No.96 of 2001, dated 22/07/2002, reversing the judgment and decree, dated 04/04/2000 made in OS No.433 of 1997 on the file of the District Munsif Court, Tirunelveli.

For Appellants	: Mr.D.P.Sundararaj
For 1 st Respondent	: Mr.Ananth C Rajesh
For R2 to R3	: Mr.T.Amjad Khan Government Advocate

JUDGMENT

This second appeal is filed by the 1st Defendant as against the judgment and decree of the II Additional Sub Judge, Tirunelveli, made in AS No.96 of 2001, dated 22/07/2002, reversing the judgment and decree, dated 04/04/2000 made in OS No.433 of 1997 on the file of the District Munsif Court, Tirunelveli.



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2.The first respondent herein, who is the plaintiff before the Trial Court, contended that she was a member (No.390) of the second defendant Society. She applied for allotment of a house site and, pursuant thereto, was directed to pay a sum of Rs.1,058/- towards the cost of the plot. The plaintiff paid the said amount on 09.07.1992 under Receipt No.436.

2.1.As per the resolution of the Special Officer and proceedings of the Society, Plot No.152 was allotted to the plaintiff for construction of a dwelling house. Consequently, a sale deed was also executed by the Society in her favour on 20.07.1992 and was duly registered as Document No.1528/1992 before the Sub-Registrar, Melapalayam. Possession of the property was also handed over to the plaintiff on the same day.

2.2.The plaintiff further contended that, subsequently and without any authority, the Special Officer of the Society cancelled the sale deed by executing a deed of cancellation dated 04.05.1993 registered as document No.822/93. The said cancellation, allegedly based on a resolution dated 27.02.1993, was not communicated to the plaintiff and is



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invalid in law. No reasons were assigned for such cancellation. The plaintiff alleged that the cancellation was arbitrary, capricious, and without jurisdiction. The plaintiff preferred a petition under Section 90 of the Co-Operative Societies Act, which was taken as Petition No.342 of 1992 before the competent authority. By order, dated 29.06.1994, the authority held that there was no illegality in the execution of the sale deed in favour of the plaintiff. It was further held that the cancellation deed dated 04.05.1993 executed by the Special Officer was null and void and a direction was issued to cancel the said cancellation deed within one month from the date of the order. The authority also directed that the plaintiff is entitled to possession and enjoyment of Plot No.152. Pursuant to the said order, the Special Officer executed a further deed on 05.08.1994 affirming that the original sale deed dated 20.07.1992 executed in favour of the plaintiff is valid and continues to remain in force.

2.3.The plaintiff further stated that, after taking possession, she levelled the land, submitted a building plan to the Municipality, and incurred substantial expenses with the intention of constructing a house. The plan was approved on 06.02.1997. It was also stated that in the sale

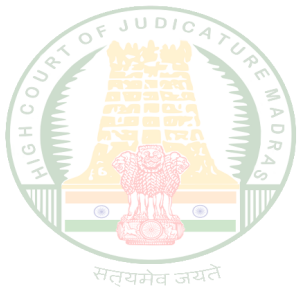


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deed dated 20.07.1992, her name was wrongly mentioned as “K.Kanthamani” instead of “S.Kanthamani” which was later rectified by a registered rectification deed dated 17.07.1996 executed by the Society.

2.4.The plaintiff further averred that she subsequently came to know that the first defendant had filed a complaint before the District Consumer Disputes Redressal Forum, Tirunelveli, in C.O.P. No.6 of 1993, claiming that the suit property had originally been allotted to her and that its cancellation was improper. The Consumer Forum allowed the complaint, and the appeal preferred by the Society in Appeal No.491 of 1994 was also dismissed.

2.5.The plaintiff contended that she was not made a party to the said proceedings. Based on the orders of the Consumer Forum, the Society cancelled the plaintiff’s sale deed dated 20.07.1992 by a letter of cancellation dated 17.07.1997 based on resolution dated 11.07.1997 and executed a sale deed in favour of the 1st defendant on 01.08.1997. The plaintiff asserted that such cancellation is illegal and not binding on her. Hence, the suit was filed seeking declaration of title to the suit property, and permanent injunction restraining the defendants from interfering with her peaceful possession and enjoyment.



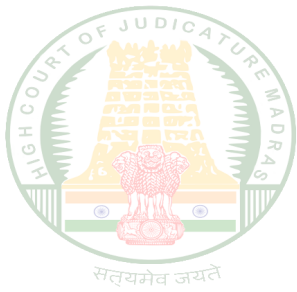
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3.The first defendant /appellant filed a written statement denying the plaint averments and contended that she is the absolute owner in possession and enjoyment of the suit property.

3.1.According to her, she has been a member of the Society since 09.02.1968 (Membership No.88). She paid Rs.300/- on 10.09.1969 (Receipt No.11) and further amounts under receipts dated 13.10.1969 and 18.11.1959.

3.2.On 26.09.1977, the President of the Society requested her to pay Rs.537.50/- towards the balance cost for allotment of Plot No.152. She sent a demand draft on 04.04.1987, which was received on 15.04.1987.

3.3.However, she later received a letter dated 28.02.1992 stating that the allotment in her favour was cancelled, though her payments were not refunded. She issued a notice dated 13.03.1992 questioning the cancellation. The Society replied that only Rs.900/- had been paid and demanded the balance, which she paid on 06.04.1992.



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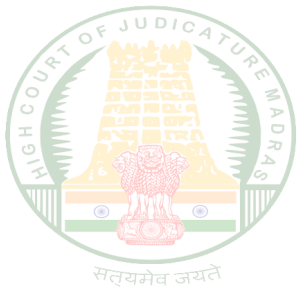
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3.4.Despite this, the Society later took a new stand that she was

ineligible since her husband had already been allotted a house site.

3.5.Aggrieved, she filed C.O.P. No.6 of 1993 before the District Consumer Forum, Tirunelveli, which directed execution of a sale deed in her favour. Meanwhile, the Society had executed a sale deed in favour of the plaintiff without her knowledge, which she contended that the same is not binding on her. Pursuant to a resolution dated 27.02.1993, the Society cancelled the plaintiff's allotment and executed a cancellation deed on 04.05.1993.

3.6.The plaintiff filed Arbitration Suit No.342/1993-94 before the Deputy Registrar of Co-operatives, Tirunelveli, in which the first defendant was not a party. Though the Deputy Registrar set aside the cancellation, subsequently, the Society allotted Plot No.152 to the first defendant and executed a sale deed in her favour on 01.08.1997 registered as document No.3257/97 as per resolution dated, 11.07.1997 in compliance with the Consumer Forum's order.



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3.7.Hence, the first defendant contended that the plaintiff has no right, title, or possession over the suit property and sought dismissal of the suit.

4.The second defendant Society, while disputing the plaint averments, admitted that the Deputy Registrar had set aside the cancellation deed executed by the 2nd defendant on 29.06.1999 and hand over the order, a deed of affirmation dated 05.08.1994 affirming the sale deed dated 27.09.1992 executed in favour of the plaintiff remains in force.

4.1.However, it contended that the first defendant had obtained an order from the District Consumer Forum directing allotment in her favour.

4.2.In compliance with the said order, and pursuant to execution proceedings, the Special Officer passed an order on 08.02.1994 allotting the suit schedule property to the first defendant and executed a sale deed in her favour. The Society further contended that the plaintiff is not entitled to declaration of title, as the earlier sale deed stood cancelled, and the Civil Court lacks jurisdiction to entertain the suit.



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5.The trial Court framed the following important issues among others:-

i.Whether the plaintiff is entitled to the relief of a declaration?

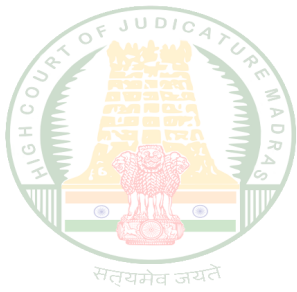
ii.Whether the 1st defendant proved that she is in possession and enjoyment of the property from 26/09/1977?

iii.Whether the sale deed executed on 24/07/1992 by the Special Officer in favour of the plaintiff has been cancelled by the Special Officer, dated 01/08/1997 is correct?

iv.Whether the sale deed executed in favour of the first defendant is proper?

6.Before the Trial Court, on the side of the plaintiff, 2 witnesses were examined as PW1 and PW2 and 4 documents were marked as Exs.A1 to A4. On the side of the defendants, 2 witnesses were examined as DW1 and DW2 and 36 documents were marked as Exs.D1 to D36.

7.After perusal of the evidence both oral and documentary, the Trial Court dismissed the suit.



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8. Against which, the plaintiff preferred a first appeal before the Subordinate Court, in AS No.96 of 2001 reversed the judgment of the trial court and allowed the suit as prayed for, against which the second appeal has been preferred by the first defendant

9. The following substantial questions of law were formulated by this Court:-

a. Whether the sale deed executed by the second respondent in favour of the 1st defendant is valid?

b. Whether the Lower Appellate Court erred in law in reversing the judgment of the trial Court?

c. Whether the civil court has jurisdiction to entertain the suit?

10. Both parties reiterated the averments contained in the plaint as well as in the written statement.

Answer to the points:-

11. It is an admitted fact that the plaintiff is a member of the second defendant Society and that Plot No.152 was allotted to her pursuant to Resolution No.14 passed by the Special Officer of the Society, after

10/17



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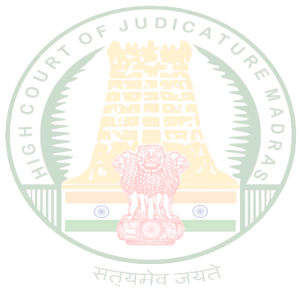
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receipt of the entire sale consideration. Consequent thereto, a registered sale deed bearing Document No.1528/1992 dated 20.07.1992 was executed in favour of the plaintiff, subject to certain conditions governing usage and alienation.

12.It is also not in dispute that possession of the property was handed over to the plaintiff, and she had taken steps towards the development of the property. The evidence of PW2 clearly establishes that the plaintiff was in possession and enjoyment of the property from 1992 onwards.

13.The records further reveal that an earlier allotment of the very same plot had been made in favour of the first defendant/Appellant who is the appellant . However, the said allotment was cancelled by the Society on 28.02.1992 on the ground that the first defendant was ineligible under the relevant by-laws, as her husband had already been allotted another plot, thereby attracting disqualification.

14.Subsequent to such cancellation, the plot was validly allotted to the plaintiff, and a registered sale deed was executed in her favour after receipt of full consideration.



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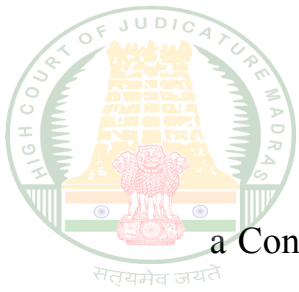
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15.However, the second defendant Society, without issuing any notice to the plaintiff and without affording her an opportunity of being heard, executed a unilateral cancellation deed, purporting to cancel the sale deed already executed in favour of the plaintiff on 04.05.1992.

16.Aggrieved by such unilateral cancellation, the plaintiff initiated arbitration proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act before the Deputy Registrar. The competent authority, after due consideration, declared the cancellation deed as null and void and directed the Society to recognise the plaintiff's rights. Admittedly, the said order has not been challenged and has attained finality.

17.In the meantime, the first defendant had approached the District Consumer Disputes Redressal Forum, Tirunelveli, challenging the earlier cancellation of allotment made in her favour. The Consumer Forum allowed her complaint and directed the Society to allot a plot to her.

18.However, it is pertinent to note that the Consumer Forum did not adjudicate upon the title of the property nor did it direct restoration of the very same plot already conveyed to the plaintiff. It is well settled that



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a Consumer Forum cannot conclusively decide complicated questions of title, particularly when third-party rights are involved.

19. In purported compliance with the order of the Consumer Forum, and to avoid execution proceedings, the Society passed a resolution and executed a fresh sale deed in favour of the first defendant in respect of the very same plot, after cancelling the plaintiff's sale deed. Such action on the part of the Society is wholly illegal and unsustainable. The said cancellation was not supported by any legally sustainable ground such as fraud, misrepresentation, undue influence, mistake, or lack of authority.

20. It is a settled principle of law that once a registered sale deed is executed and title has passed to the purchaser, the same cannot be unilaterally cancelled by the vendor. Such cancellation, if at all required, can only be effected by approaching a competent Civil Court and obtaining a decree. Once the title had already passed to the plaintiff through a registered sale deed, the Society had no authority to divest such title unilaterally and convey the same property to another person. Though the 1st defendant/Appellant claims to be in continuous possession



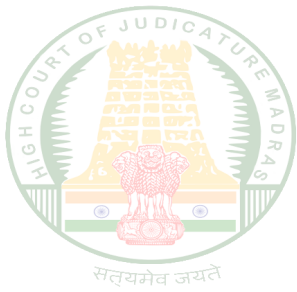
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no documentary evidence has been produced to substantiate such claim.

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21.Furthermore, the cancellation deed is silent regarding the refund of the sale consideration received from the plaintiff. Even assuming cancellation was permissible, it was incumbent upon the Society to issue prior notice and refund the entire consideration before proceeding further. The failure to do so, renders the cancellation arbitrary and void. Without properly considering the above aspects, the Trial Court dismissed the suit filed by the plaintiff/1st respondent which is not justified. The first appellate Court on proper appreciation of the facts and evidence set aside the same. Therefore, there is no illegality in the judgment passed by the first appellate Court.

22.As regards jurisdiction, the contention of the defendants that the Civil Court's jurisdiction is barred under the Tamil Nadu Cooperative Societies Act cannot be accepted. The present dispute involves the declaration of title, the validity of registered documents, and consequential reliefs. Such matters squarely fall within the domain of the Civil Court. The statutory bar under the Cooperative Societies Act does not extend to the adjudication of title to immovable property.



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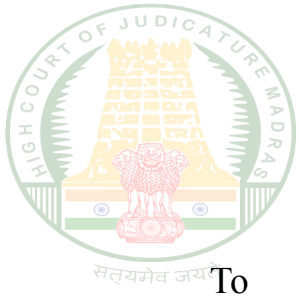
23.In view of the above discussion, this Court holds that the judgment and decree passed by the lower appellate court is valid.

24.Accordingly, the judgment and decree of the Lower Appellate Court are confirmed. The plaintiff is declared as the absolute owner of the suit property, and the relief of permanent injunction granted in her favour is also upheld.

25.In the result, this second appeal is **dismissed** and the judgment and decree passed by the first appellate court are confirmed. The parties are directed to bear their respective costs. Consequently, connected Miscellaneous Petition is closed.

02.04.2026

Index : Yes
Internet : Yes
NCC : Yes / No
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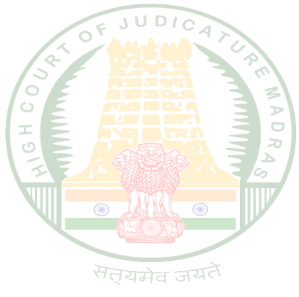
To
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1.The II Additional Sub Court,
Tirunelveli.

2.The District Munsif Court,
Tirunelveli.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

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Pre-Delivery
Judgment in
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02/04/2026