

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 22ND DAY OF MARCH 2018

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.405 of 2016

And

A.No. 8556 of 2017

Smt.K.Sushila

W/o. Late V.Kannabiran

No. 74/2, P.E.Koil North Mada Street,

Ayanavaram, Chennai 600 023.

: Plaintiff

Vs.

1. The Sub Registrar of Konnur
Office of the Sub Registrar of Konnur
No:5/5, F-Type, Main Road,
Sidco Nagar, Villivakkam,
Chennai 600 049.

2. The Inspector General of Registration
Office of the Inspector General of Registration
No:120, Santhome High Road,
Mylapore, Chennai 600 004.

3. The Vellalar Co-operative Bank Ltd.,
Rep.by its the Special Officer
The Vellalar Co-operative Bank Ltd.,
New No: 108 (Old No.457) Mint Street,
Vallalar Nagar, Chennai 600 079.

4. The Saidapet Co-operative Bak Ltd.,
Rep.by its the Special Officer
Saidapet, Co-operative Bank Ltd.,
No:41, Karaneeswarar Koil Street,
Saidapet, Chennai 600 015.

5. The Deputy Registrar of Co-operative Societies (Debts)
II Floor, Kuralagam,
Chennai 600 108.

6. The Registrar of Co-operative Societies
Office of the Registrar of Co-operative Societies
N.V.N.Natarajan Maligai,
No:170, Periyar E.Ve.Ra.High Road,

Kilpauk, Chennai 600 010.

7. The Muthiyalpet Benefit Fund Ltd.,
Rep.by its the Chief General Manager
Chennai Muthiyalpet Benefit Fund Ltd.,
No:199, Thambu Chetty Street,
Chennai 600 001.

8. The Muthiyalpet Benefit Fund Ltd.,
Rep.by its the Administrator
Chennai Muthiyalpet Benefit Fund Ltd.,
No:199, Thambu Chetty Street,
Chennai 600 001.

9. Mrs.K.Sundari Kannan
W/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

10. M.Kannan
S/o. Munirathanam,
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

11. K.Senthil
S/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

12. K.Sangeetha
D/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049. : Defendants

Civil suit praying that this Hon'ble Court be pleased
to pass a judgment and decree:-

a) to grant leave to the plaintiff to institute this
suit as an indigent person.

b) directing the defendants collectively to pay a sum
of Rs.25,10,000/- as compensation with damages to the
plaintiff.

c) to grant cost of the suit.

A.No. 8556 of 2017:

The Special Officer,
 Saidapet Co-Operative Bank Ltd.,
 No.41, Karaneeswarar Koil Street,
 Saidapet, Chennai 600 015. : Applicant/Defendant 4

-Vs.-

1. Smt.K.Sushila
 W/o. Late V.Kannabiran
 No. 74/2, P.E.Koil North Mada Street,
 Ayanavaram, Chennai 600 023. : 1st Respondent/Plaintiff

2. The Sub Registrar of Konnur
 Office of the Sub Registrar of Konnur
 No:5/5, F-Type, Main Road,
 Sidco Nagar, Villivakkam,
 Chennai 600 049.

3. The Inspector General of Registration
 Office of the Inspector General of Registration
 No:120, Santhome High Road,
 Mylapore, Chennai 600 004.

4. The Special Officer
 The Vellalar Co-operative Bank Ltd.,
 New No: 108 (Old No.457) Mint Street,
 Vallalar Nagar, Chennai 600 079.

5. The Deputy Registrar of Co-operative Societies (Debts)
 II Floor, Kuralagam,
 Chennai 600 108.

6. The Registrar of Co-operative Societies
 Office of the Registrar of Co-operative Societies
 N.V.N.Natarajan Maligai,
 No:170, Periyar E.Ve.Ra.High Road,
 Kilpauk, Chennai 600 010.

7. The Chief General Manager
 Chennai Muthiyalpet Benefit Fund Ltd.,
 No:199, Thambu Chetty Street,
 Chennai 600 001.

8. The Administrator
 Chennai Muthiyalpet Benefit Fund Ltd.,
 No:199, Thambu Chetty Street,
 Chennai 600 001.

9. Mrs.K.Sundari Kannan
W/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

10. M.Kannan
S/o. Munirathanam,
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

11. K.Senthil
S/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

12. K.Sangeetha
D/o. M.Kannan
No:48 (Old No.19) Rajamangalam Main Road,
Villivakkam, Chennai 600 049.

: Respondents 2 to 12/
Defendants 1 to 3 and 5 to 12

Application praying that this Hon'ble Court be pleased to reject the plaint filed by the 1st respondent/plaintiff in C.S.No.405 of 2016.

This Suit along with application coming on this day before this court for hearing the court made the following order:-

There is no representation on behalf of the respondent/plaintiff. There is also no representation continuously on 19.03.2018. This Court had noted that if there is again no representation, order shall be passed. This Court was constrained to pass such an order because there was no representation even in the previous hearing dates ie., on 26.02.2018 and on 06.03.2018. Today again there is no representation on behalf of the

respondent/plaintiff.

2. This Application has been filed by the fourth defendant in the suit, namely, The Special Office, Saidapet Co-operative Bank Ltd., No.41, Karaneeswarar Koil Street, Saidapet, Chennai - 600 015. The suit had been filed for a direction against the defendants collectively to pay a sum of Rs.25,10,000/- as compensation with damages and for costs.

3. According to the learned counsel for the fourth defendant herein, the ninth defendant, namely, Mrs.K.Sundari Kannan had approached the fourth defendant and had taken loan by mortgaging the properties. It had been stated that the tenth defendant is her husband and the eleventh defendant is her son and the twelfth defendant is her daughter. The applicant herein, namely, the fourth defendant had obtained legal opinion on the title deeds of the property to be mortgaged. The ninth defendant had submitted original sale deed in Document No. 5432 of 1990 dated 22.08.1990, patta, town survey report, electricity board connection, which were all in the name of the ninth defendant and also encumbrances issued by the Sub Registrars, Ambattur and Konnur from the period 01.01.1972 to 29.08.2002. Loan application was submitted and mortgage loan was sanctioned to an extent of Rs.3,50,000/- on

31.08.2002 payable in 60 EMIs. Mortgage deed was also registered as Document No. 3129 of 2002 dated 22.08.2002. The encumbrances did not reveal any encumbrance. The applicant herein did not have any reason to doubt the genuinity of the sale deed. However, as it turned out later, all the documents were forged documents.

4. The certified Surveyor also stated that the plaintiff herein was not residing in the suit property. The applicant herein was not informed about the purchase of the mortgage property by the plaintiff in court auction sale on 10.11.1977 and registration of sale certificate in the Sub Registrar's Office, Konnur, on 19.02.1998. It is further stated that subsequently, O.S.No. 718 of 2002 had been filed before the XIIIth Assistant City Civil Court, seeking only injunction as against the first defendant from registering any document.

5. It is also stated that under Section 176 of the Tamil Nadu Co-operative Societies Act, any act done by the public official in official capacity is protected and there is a bar of the City Civil Court.

6. It is stated by the applicant herein that they had also given police complaint. It is seen that the plaintiff had not specifically claimed the apportionment of compensation payable against the present applicant.

7. In view of all these facts, since the applicant herein/ the fourth defendant, is protected under the statute, the suit cannot lie as against the applicant, who is the fourth defendant, for act done in good faith. Accordingly, the plaint is rejected in so far as the fourth defendant/applicant herein alone is concerned and this Application is allowed in respect of fourth defendant/applicant herein.

8. Office is directed to put up a note with respect to the service of suit summons on the other defendants. Call the matter on 20.04.2018. Office is also directed to make a note that the suit has been rejected against the fourth defendant.

Sd/-C.V.K.J

22.03.2018

//Certified to be a true copy//
Dated this the day of 2018

JJ 11/06/2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.