

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 30.08.2019

Pronounced on: 06.09.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition Nos.3715 & 23953 of 2019
& W.M.P.Nos.4104 & 10068 of 2019
& W.M.P.Nos.23810 & 23812 of 2019

1. T.A.S.Kaleelul Rahman,
S/o.Saitni,
President,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
19, Krishnapuram Road,
Tiruchirapalli - 8.
2. D.Suresh,
S/o.M.Dhandapani,
Vice President,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
5/3, Andakondan,
Tiruchirapalli - 17.
3. K.Muthuramalingam,
S/o.Karuppiah Thevar,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
57, Uppiliya Street, Tiruchirapalli.
4. S.Ravi Kumar,
S/o.Singaram,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
22A, Krishnapuram Road,
Tharanallur, Tiruchirapalli.
5. K.Abdulbasheer,
S/o.Abdul Kareem,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
5A, Rahimaniyapuram,
Tiruchirapalli - 18.

6. M.Pitchai Mohamed,
S/o.Mohamed Hussain,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
30, New Building,
Old Karur Road,
Mela Chinthamani, Tiruchirapalli.

7. T.Saravanan,
S/o.S.Thangarasu,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
13, Kalmathai, Tharanallur,
Tiruchirapalli.

8. P.Sampath,
S/o.M.Palanivel,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
6B/2, Chozharajapuram, Uraiyur,
Tiruchirapalli.

9. S.Subbalakshmi,
W/o.Sethumuthuraman Pillai,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
Tiruchirapalli.

10. T.Nijibunisha,
W/o.Thajeetheen,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
7, Rejimand Bazar,
Tiruchirapalli - 17.

11. A.Sagurban Beevi,
W/o.Abduljabar,
Board Member,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
19A, Meenara Street,
Tiruchirapalli.

.... Petitioners
in W.P.No.3715 of 2019

T.A.S.Kaleelul Rahman,
S/o.Saitni,
19, Krishnapuram Road,
Tiruchirapalli - 8.

... Petitioner
in W.P.No.23953 of 2019

/versus/

1. The Registrar of Co-operative Societies (Housing)
48, Rithatran Road,
Veppari,
Chennai - 600 007. ... Respondent
in W.P.Nos.3715 & 23953 of 2019
2. The Managing Director,
Tamil Nadu Co-operative Housing Federation,
48, Rithatran Road,
Veppari, Chennai - 600 007. ... Respondent
in W.P.No.3715 of 2019
3. The Regional Deputy Registrar (Housing),
Trichy Region,
16/3, Samathu School Street,
Khaja Nagar,
Mannarpuram, Tiruchirapalli - 20.
4. The Administrator/Co-operative Sub Registrar,
R786, Tiruchirapalli Co-operative House Construction Society
Ltd.,
Makkal Mandram, Colony Main Road,
Thillai Nagar,
Tiruchirapalli. ... Respondents 3 & 4
in W.P.Nos.3715 & 23953 of 2019

Prayer in W.P.No.3715 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records pertaining to the impugned order issued by the 1st respondent made in Na.Ka.4814/2017/Sa.Pa.2 dated 08.01.2019 and quash the same.

Prayer in W.P.No.23953 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records pertaining to the impugned express memorandum made in Na.Ka.No.1 of 2018/Thu.Pa. Dated 12.07.2019 issued by the 2nd respondent as well as the consequential notice dated 12.07.2019 issued by the 3rd respondent published in 'DINAMALAR' news paper dated 13.07.2019 and quash the same.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel,
in both cases for Mr.D.Sadiq Raja

For R1, R3 & R4 : Mr.Arvind Pandian, AAG-II,
in W.P.No.3715 & 23953 of 2019 Asst. by Mr.L.P.Shanmugasundaram
Special Government Pleader

For R2 : Mr. Kanmani Annamalai,
in W.P.No.3715 of 2019 Additional Government Pleader

C O M M O N O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The Writ Petition is filed challenging the order of supersession passed by the first respondent vide order dated 08.01.2019 in exercise of his power under section 88(1) of the Tamil Nadu Co-operative Societies Act, 1983.

3. The petitioner was elected and assumed Office as President for the Tiruchirapalli Co-operative House Construction Society Ltd, on 11.08.2018. The said society is a self reliant Society functioning without any Government share holding or financial assistance from the Government. In the year 1974, the Society promoted a lay-out at Tiruchirapalli in the name of "Anna Nagar lay-out." Out of 27 shop sites 17 sites sold till 2001. Out of the 17 sites for 15 sites sale deeds were executed. In respect of shop Numbers 7 and 11 though the allottees (T.S.M. Boopathy and S.Muthunagarathinam respectively) paid the entire sale price in the year 2001 itself, sale deed was not executed. In the year 2013, when the elected body took charge of the Board, the allottees made request for execution of sale deed, accordingly the Board passed a resolution unanimously to execute the sale deed in their favour and on 08.08.2016, executed sale deed for the shop sites Nos. 7 and 11.

4. In respect of these transactions, enquiry under section 81 of the Tamil Nadu Co-operative Societies Act, 1983, was initiated by the 3rd respondent/Regional Deputy Registrar (Housing), vide proceedings dated 27.01.2017 to enquire into whether the Society has sold any house sites and shop sites on or after 01.01.2016 in contravention to G.O.Ms No.224 of Housing and Urban Development Department dated 27.11.2009. The said enquiry proceedings was stayed by the High Court in W.P (MD) No. 8524 of 2017 filed by one M.Sait. The said writ petition is still pending.

5. With respect to allottee's those who failed to remit the entire cost were communicated on 05.06.2017 intimating about cancellation of the allotment and return of part sale consideration paid by them. Out of eight notice, intimating intention of cancellation of allotment, 3 appeared and produced document that they have paid the sale price in full prior to 27/11/2009. (The date of G.O.Ms.No.224). Then Board on 10.05.2017 resolved to execute the sale deed to these three persons who have paid the full sale price prior to 27.11.2009. Further, the Board resolved to authorise the Secretary to the Society to execute the sale deed on

behalf of the society. By virtue of the said resolution, the Secretary to the Society executed sale deed in favour of these three persons in the month of May 2017. This also became the subject matter of Section 81 enquiry, alleging that it was in violation of G.O.Ms.No.224. Then, after filing of Writ Petition in W.P.(MD).No.16719 of 2017 challenging the enquiry notice, the notice was withdrawn on administrative ground.

6. The G.O.Ms.No.224 Housing and Urban Development Department, dated 27.11.2009 and the consequential direction issued by the Registrar of Co-operatives (Housing) vide proceedings dated 21.12.2012 challenged by the society in W.P.(MD) No.14398 of 2017. This Court, by order dated 02.08.2017 directed the respondent to maintain status quo until further orders and tagged the petition along with connected writ petitions.

7. On 26.10.2017 when the first respondent issued show cause notice to the then Board members why the Board should not be superseded, the then Board filed W.P.(MD).No.21159 of 2017 challenging the show cause notice. The High Court of Madurai Bench vide its order dated 17.11.2017 ordered the impugned proceedings shall be kept in abeyance and meanwhile, the petitioner should not execute any sale deed.

8. In the said circumstances, the present Board, on receipt of the application from S.Vigneswari and S.Hakim for execution of conveyance deed in their favour for the site sold to them and entire sale consideration paid as early as 1964 and 1977 respectively. The Board passed resolution to execute the conveyance deed in their favour since records reveal the original allottees Gnanammal and Sheshadri have paid the entire sale consideration long back and thereafter, they have sold it to the present owners. After verification of the records, the deed of conveyance was executed in favour of Vigneshwari and Hakeem on 03.10.2018.

9. The 3rd respondent/Regional Deputy Registrar, Trichy, issued letter to cancel the above two conveyances within two days since the said conveyance is contrary to the direction issued by the first respondent and the orders passed by the Court. The petitioner replied stating that the said sale conveyance is in respect of sites sold long back. They are not unsold plots covered under G.O.Ms.224, dated 27/11/2009. Unconvinced with the reply, the first respondent vide communication dated 05.12.2018 issued a show cause notice to explain why the Board should not be superseded as per section 88(1) for executing sale deeds on 03.10.2018 for two sites contrary to the G.O.Ms.224 and direction issued by the first respondent vide proceedings dated 21.12.2012 and while writ proceedings challenging the Section 81 enquiry for the very same violation pending. This again was challenged by the petitioner in

W.P.No.33911 of 2018. In view of the order of supersession passed on 08.01.2019 the petitioner withdrew the said writ petition, with liberty to challenge the order of supersession.

10. Thus the present Writ Petition is filed, on the ground that the petitioner Society is a Self Reliant society. It is not depending on the state for any financial assistance. The 1st respondent/Registrar of Co-operative Societies (Housing) cannot take action under section 88(1) against the petitioner Society, since the Government has no share holding in the petitioner Society or it give any financial assistance to the Society.

11. The Board resolved to execute deeds for which the sale consideration was received by the Society long ago. Due to supersession of the Board and administered by Special Officers for more than a decade, the sale deeds were not executed to few allottees. The grievance of such allottees were redressed by the Board. There is no money transaction involved in these conveyances. The formal registration of the transfer of property sold and consideration received long ago meant to be effected through these conveyances. There is no financial implications. The first respondent/Registrar of Co-operative Societies (Housing), without applying the mind has passed the impugned order of supersession.

12. The power of superseding duly elected Board is an extraordinary power vested with the first respondent and same has to be exercised with caution. Contrary to the said settled Principle of law, the first respondent has passed the impugned proceedings taking away the fundamental freedom of the members to form association and promote formation of Co-operative societies envisaged under Article 43B of the Constitution. Any order of supersession under section 88 should be preceded by audit, enquiry or inspection under sections 80 to 82 of the Act. Without any enquiry superseding a democratically elected board is unconstitutional. In this connection, the Learned Senior Counsel for the petitioner cited the following judgments.

1). Arignar Anna Weavers Co-operative Society Vs. State of Tamil Nadu & others reported in AIR 1999 Mad 254.

2). J.Ganesh Vs. The Joint Registrar of Co-operative Societies (Indiankanoon.org/doc/179783116/)

3). N.R.Chandrasekaran and others Vs. Registrar of Co-operative Societies reported in 2017 (2) MLJ 338.

13. Earlier some of the original allottees sold their sites to non-members. Those non-members on purchase, sought for execution of sale deed in their favour. In the adjudication, under section 90 of the Act, award were passed directing the society to execute sale deeds in the favour of non-members by admitting them as members. While so, the Act of the petitioners resolved to execute the conveyance deed in favour of the members cannot be faulted and discriminated.

14. The Society formed for promoting layouts and sell housing sites to its members. Rule 78(3) of the Tamil Nadu Co-operative Society Rules, 1988, mandates sanction of the General Body and Registrar in respect of transaction of immoveable properties of the society. This restriction is not applicable for Housing societies since its prime object itself to sell immovable properties.

15. The Hon'ble High Court in the Writ Petition W.P.No.21159 of 2017 by its order dated 17.11.2017 restrained the Society not to execute sale deeds in respect of new plots and not the old plots already sold. The society has only executed deed for the plot sold and consideration already received. The subsequent transaction of those property to others is transaction between two individuals and not between the society and its member. Hence, the subsequent sale by the member to any third party has no relevancy.

16. The learned Additional Advocate General appearing for the respondents 1, 3 and 4 submitted that, the Government of Tamil Nadu in order to safeguard the interest of Co-operative Housing Societies constituted committee to fix the upset or minimum price for different category of plots in different lay-outs of the Co-operative Housing societies vide G.O.(D).No.224/Housing and Urban Development (HCS) Department, dated 27.11.2009. This committee is designated as "Pricing Committee". This committee ordered to meet once in a year during the month of April, to fix the upset price. This was later modified in G.O.Ms.209, dated 01.02.2011 as and when it is felt necessary, the committee shall meet out in view of administrative convenience and also for urgent contingencies. In the same subject matter the Registrar issued direction under section 181 of the Act in RC No.1674/2008/C4, dated 21.12.2012 as below:-

"Any unsold plots/sites earmarked for residential/commercial/public purposes available with all Co-operative Housing Societies including the liquidated societies in all Regions under the control of Registrar of Co-operative Societies (Housing) shall not be sold without prior permission of the Registrar of Cooperative

Societies (Housing) and without fixation of upset price by the pricing committee appointed by the Government. Therefore, all the Regional Deputy Registrars (Housing) are instructed to adhere this direction and to collect the details of unsold plots/sites in the Cooperative Housing Societies including the liquidated societies in their Regions and to ensure that no plots/sites are sold in violation of the G.O.cited above and the direction of the Registrar of Cooperative Societies (Housing) Chennai issued here under."

17. However, the Board of the petitioner Society in violation of the above Government Order and direction alienating the property since 01.01.2016, thereby causing huge monetary loss to the State. When action under Section 81 of the Tamil Nadu Co-operative Societies Act, contemplated, the erstwhile Board members filed Writ Petition W.P.(MD).No.8524 of 2017 and obtained interim stay on 28.04.2017. When action for causing loss of Rs.6,21,97,800/- by selling 7 plots contrary to the Government Order and direction initiated by issuing show cause notice why the Board should not be superseded? The Society filed W.P.No.21159 of 2017. The Court, ordered the impugned proceedings to be kept in abeyance. Also directed the petitioner Society no further execution of sale shall be executed in the meanwhile. While so, the present petitioner after assuming Office on 11.08.2018 through the Secretary who is a deputationist from Thanjavur had executed sale deeds in favour of Vigneswari and Hakeem on 03.10.2018. The sale deed executed grossly under valued and much below the guideline value. Further, the Society has allowed the stamp duty exemption. The original allottee Gnanambal is not related to Vigneswari. Therefore, the incidences quoted by the petitioner as precedent does not apply to these two sale deeds. Transfer of property permissible in genuine cases on the recommendation of the Deputy Registrar. The two sale transactions involved in this case is neither genuine nor done with bonafide intention or the recommendation of the Deputy Registrar. The property were sold very next day ten times more than the value shown in the sale deed of the Society is enough proof that the sale deed executed by the petitioner Society through its Secretary in favour of Vigneswari and Hakeem is detrimental to the financial interest of the Society.

18. The learned Additional Advocate General for the respondents pointing out that the state gives stamp duty exemption for the property sold by the Tamil Nadu Co-operative Housing societies. Thus, financial assistance is provided to these Societies therefore, the power to supersede in case of violation is vested with the Registrar of Co-operative Societies. There is no impediment to invoke the power under Section 88 without resorting to enquiry or inspection. The petitioners were given 15 days time to explain why action should not be taken against them. They took time to give explanation. Instead of giving explanation they filed

W.P.No.33911 of 2018 and withdrew it to pursue the present writ petition. The petitioners and the erstwhile Board of Directors while managing the affairs of the Society property continuously committed acts prejudicial to the interest of the Society. They are guilty of negligence in their performance of their duties.

19. Under Section 88 (1) of the Act vest power of supersession of the Board of Directors under can be exercised in the following circumstance:-

88. Supersession of Board:- (1) Where the board of any registered society:-

(i) is of persistent default in managing the affairs of the society in accordance with the provisions of this Act, the rules or by-laws; or

(ii) is of negligence in the performance of its duties; or

(iii) has committed any act prejudicial to the interests of the society or its members; or

(iv) there is stalemate in the constitution or functions of the board.

20. Following the judgement of the Supreme Court in JT. Registrar of Co-operative Societies & others Vs. P.S.Rajagopal Nadu reported in (1970 (1) SCC 753) and State Of M.P and others Vs. Sanjay Nagayach and others reported in (2013 (7) SCC 25), the Division Bench of this Court in G.Vasanthi Vs. P.Loganathan reported in 2018 (6) CTC 528 has framed the following issue :-

Whether a statutory enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as "the Act") is a pre-requisite for taking action for supersession under Section 88(1) of the Act, is the core question that arises for consideration in this intra court appeal.

And held that;

20. Section 88 (1) of the Act is an independent provision giving authority to the Registrar to supersede the Board of Management for

reasons to be recorded in writing. It is true that there must be materials before the Registrar for superseding the Society under Section 88(1) of the Act. Though the order passed by the Registrar must contain reasons for taking such an extra-ordinary action, there is no requirement that statutory enquiry or inspection or investigation must be conducted under the provisions of the Tamil Nadu Co-operative Societies Act, 1983, before initiating proceedings under Section 88(1) of the Act.

21. We therefore make the position very clear that proceedings under Sections 88(1) of the Act is independent of audit under Section 80, inquiry under Section 81 or inspection and investigation under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983. To put it otherwise, there is no requirement that there should be an audit under Section 80, enquiry under Section 81 or inspection under Section 82 of the Act for taking action for supersession of the Management of the Society under Section 88(1) of the Act.

22. Section 88 of the Act is a complete and comprehensive code unrelated to the provisions relating to audit/inquiry/inspection under Sections 80 to 82 of the Tamil Nadu Co-operative Societies Act, 1983. The learned single Judge was not legally correct in the observation that provisions relating to audit, enquiry or inspection must be resorted to before superseding the Board of Management. We are therefore of the view that the appellant must succeed.

21. The contra judgments relied by the Learned Senior Counsel for the petitioners which are referred in the earlier part of the judgement are all rendered by Single Judge not referring the Supreme Court judgment of JT.Registrar of Co-operative Societies & others Vs. P.S.Rajagopal Nadu case. Whereas, G.Vasanthi Vs. P.Loganathan case is by Division Bench following the Supreme Court judgment. Hence, the judgment of the Division Bench of this Court is binding precedent.

22. The petitioners claim that they executed the deed of conveyance to Vigneswari and Hakeem who were already the owner of the property by purchase from the original allottees. Hence, they valued the property as on the date of allotment. Further, to justify their action, they also rely upon some of the awards passed under section 90 of the Act. Those cases are in respect of

allottees who transferred the property to their relatives like daughter, wife or son. In such extraordinary circumstances, transfer of the property to non-members were entertained. Whereas, in these two cases under cloud, the persons to whom the Society has executed the deed fixing the value as on the date of allotment are total strangers to the original allottees. Further, the cartel in creating title deed for further aggrandizement is demonstrated through the records such as share certificates, sale deeds executed by the Society and in turn sale deed executed by Vigneshwari and Hakeem, immediately to third parties.

23. The Learned Senior Counsel appearing for the petitioners citing Mohinder Singh Gill Vs. The Chief Election Commissioner, New Delhi reported in (1978 (1) SCC 405):- Para 8 content that the respondents cannot improve their case through counter and external materials what not mentioned in the impugned order.

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought ,out. We may here draw attention to the observations of Bose J. in Commissioner of Police, Bombay Vs. Gordhandas Bhanji, reported in AIR 1952 SC 16.

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in Ms mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

24. The reading of the impugned order discloses reasons necessitated to supersede the Board. The counter only elaborates the facts in detail. The Board have no genuine justification in entertaining the application of the Vigneswari and Hakeem on 04.07.2018 and resolved to execute deeds in favour of them mentioning the costs fixed at the time of allotment i.e., in 1952 and 1964 respectively. The date of resolution and the date of execution of the deed is 03.10.2018. The Board has resolved to execute deed when this Court has specifically restrained them not

to execute sale deeds. Pending W.P.No.21152 of 2017, the Board has ventured to execute deed of conveyance. The reason found in the affidavit and re-joinder filed by the petitioners is that, they did not executed deed in respect of unsold plots. They have executed the deeds of conveyance in respect of plots sold prior to 01.01.2016. The circumstance under which they executed the deeds to Vigneswari and Hakim is explained in the affidavit as below:-

S.Vigneswari and one S.Hakeem who are members of the Society gave a requisition to execute a conveyance deed in their favour as the entire cost pertaining to their site as well as building were paid in the year 1964 and 1977 respectively. On verification of records, it was found that the site in reference pertaining to S.Vigneswari was originally allotted to one Gnanambal in the year 1952 under hire purchase system as per the Hire Purchase Agreement executed by her as per the books of the Society. After the allotment, the entire site amount as well as building amount was paid by her without any dues to the Society in the year 1964. In fact, clearance certificate to that effect also issued to her by the then Secretary of the 3rd respondent on 08.08.1969. From 1952 i.e., from the date of allotment, the said Gnanambal was in peaceful possession and enjoyment. Thereafter, she executed a sale deed in favour of the said S.Vigneswari way back in 1969. From the date of purchase, she has been in peaceful possession and enjoyment of the said property by paying relevant tax to various departments.

In so far as the site in reference pertaining to S.Hakeem is concerned, it was originally allotted to one Sheshatri in the year 1971 under hire purchase system as per the Hire purchase agreement executed by him as per the books of the Society. The said Sheshatri was in possession and enjoyment of the same. After the allotment, the entire site amount was paid by him. Building was constructed on his own cost. Thus, there was no due to the Society. Thereafter, the same was sold to one Mariammal in the year 1992. After her demise, the legal heirs of the said Mariammal executed a sale deed in favour of S.Hakeem in the year 2011.

The entire cost of the site and cost of the building and other amenities as determined by the

Board has been paid in full and the hire purchase amount on behalf of the member has been discharged fully. By virtue of amended By-Law No.37(A)(2) of society, the Board passed a resolution to execute conveyance deed in favour of them and further authorized the Secretary of the Society to execute the same.

25. For better appreciation, the portion of the counter demonstrating how the property has been clandestinely transferred to non-members by under valuing the property and manipulating the records thereby, caused financial loss to the State and the Society is extracted below:-

Para 30:- It is also submitted that the specific claim of the petitioner is Para 11 to the effect that S.Vigneshwari and S.Hakkim are the members of the Society, gave a requisition to execute the conveyance deed in their favour etc. are all false and frivolous. Originally T.Ganambal was admitted as a Member in the Society on 29.10.1952 and her Member Number being 434. As per the Admission Register of the Society as against the total amount of Rs.3000/- available as share capital in her account, an amount of Rs.2990/- was refunded to her on 30.03.1996, leaving a balance of only Rs.10/-. However in the instant case there is an entry in the above said admission book on 29.12.1990 as below:-

"Refunded by transfer to Smt.S.Vigneswari as per Board Resolution dated 29.12.1990."

Hence the Admission of S.Vigneswari as member of the Society itself is a bogus one and the Society records have been manipulated and fabricated in this subject matter. Furthermore, the S.Vigneswari has been given the same Member number of T.Gnanambal, i.e., 434. However, the practice to be followed in the Society regarding the transfer of shares from one member to another member is entirely different.

Para 39: The present Board is Directors of the Society along with the Secretary

Thiru.S.Velayutham have conveyed the two properties to 3rd parties originally allotted to 1.Tmt.T.Ganambal (M.No.434) and 2.Thiru.R.Seshadri (M.No.1274) blatantly violating all the instructions as already stated. In respect of conveyance of the property originally allotted to Thiru.R.Seshadri, it is pertinent to mention at this juncture that the said Thiru.S.Seshadri has already sold the property on 11.06.1992 to one Mariyammal through Sale deed No.1970 for an amount of Rs.1,77,500/-, whereas the Society has allotted the property to the said R.Seshadri for Rs.3069/- only. After the demise of above said Mariyammal her legal heirs namely R.Palanisamy Vahayara have already sold the demised property to S.Hakkim and H.Raviyath Bazaria through Sale deed No.7402 dated 02.09.2011 for a sale consideration of Rs.25,00,000/-. However, the present Board of Directors have executed a Conveyance Deed on 03.10.2018 through No.6076 to the above said S.Hakkim himself, denoting him as an allottee in the Conveyance Deed for the Original aggregate sum of Rs.3069/-.

Hence the Conveyance Deed executed in favour of S.Hakkim is a bogus and fabricated document only with an aim to evade from payment of Stamp Duty. Hence as narrated in the Brief History huge loss of Rs.3,72,65,400/- caused to the Society as detailed below:-

Sl .N o	Name of the Non-allottee	Extent	Guideline Value (per sq.ft)	Amount as per Guideline Value in Rs.
1.	Tmt.S.Vigneswari	6750	Rs.4690/-	3,16,57,500/-
2.	Tmt.S.Hakkim	2790	Rs.2010/-	56,07,900/-
	Total			3,72,65,400/-

Tmt S.Vigneshwari after getting the Sale deed executed in her favour by the Society on 03.10.2018 for Rs.2990/- has resold the property immediately on the next day i.e.,04.10.2018 to one Thiru.Praveen for Rs.3,30,00,000/- through document No.6081/2018. The huge amount of profit availed by the above said Tmt.S.Vigneswari in this transaction should have actually been gotten to the Society. Per contra the Society has been caused a loss to the tune of Rs.3,16,54,510/-"

26. The verification of the records like share certificate, minutes of Board meeting of the respective dates and the recital of the deeds indicates the Board has acted prejudicial to the interest of the Society. Hence, the order of the first respondent, dated 08.01.2019 superseding the Board and appointment of Administrator in exercise of power under Section 88 of the Tamil Nadu Co-operative Societies Act, 1983 is upheld.

In W.P.No. 23953 of 2019

This Court, on 08.02.2019 while admitting Writ Petition W.P.No.3715 of 2019, challenging the order of superseding the Board and appointment of Administrator for a period of 6 months, granted interim stay of the order impugned for a period of 6 weeks. The Counsels for the respondents took notice and sought time for filing counter. The case was posted on 21.03.2019, 13.06.2019 and 11.07.2019. Till then, the interim order was extended. While so, on 11.07.2019, the case though listed, did not reach. At the end of the day, on request of the Special Government Pleader, the case was adjourned to 01.08.2019 but the extension of stay not recorded. Taking advantage of the omission to record the extension of interim order, the Regional Deputy Registrar (Housing), Trichy Region has issued a memorandum on 12.07.2019 stating that the High Court has vacated the interim order. Hence, Thiru.R.Rajasekaran, Zonal Sub-Registrar, directed to take charge of the Society and function as Administrator. Consequently, R.Rajasekaran has issued a public notice in the daily, informing the public that the Society Board has been superseded and he has been appointed as Administrator. Public were informed not to deal with anybody else in respect of the affairs of the Society.

2. The memorandum of the the Regional Deputy Registrar (Housing) and the pubic notice published at the instance of the Co-operative Sub-Registrar R.Rajasekaran are challenged in this writ petition.

3. The sequence of the events, as stated in the affidavit accompanied with the petition for Writ of Certiorari is self explanatory and as pointed out by the learned Senior Counsel for the petitioner, stay granted at the time of admission has been extended time to time. Thereafter, on a particular day (i.e.,11/07/2019), the Court has not specifically extended the interim order. For want of time, this Court has adjourned the case to a future date at the request of the Counsel representing the respondents. This does not mean that the stay granted earlier is vacated, at the most it should be construed that, the interim order not extended. Whereas, the memorandum issued by the Regional Deputy Registrar (Housing) indicates as if this Court vacated the stay by its order dated 11.07.2019. This statement is factually

incorrect. Since, the impugned memorandum is issued based on an erroneous impression that the stay order vacated on 11.07.2019 by this Court, the memorandum and the public notice dated 11.07.2019 is to be quashed.

4. However, in view of upholding the validity of the order of supersession dated 08.01.2019, the actions taken during pendency of the Writ Petition gets merged. The memorandum and public notice issued on 12.07.2019 does not survive.

5. In the result, for the reasons stated above in Writ Petition No.3715 of 2019 is dismissed and Writ Petition No.23953 of 2019 is disposed. No costs. Consequently, Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Registrar of Co-operative Societies (Housing)
48, Rithatran Road,
Veppari,
Chennai - 600 007.

2. The Managing Director,
Tamil Nadu Co-operative Housing Federation,
48, Rithatran Road,
Veppari, Chennai - 600 007.

3. The Regional Deputy Registrar (Housing),
Trichy Region,
16/3, Samathu School Street,
Khaja Nagar,
Mannarpuram, Tiruchirapalli - 20.

4. The Administrator/Co-operative Sub Registrar,
R786, Tiruchirapalli Co-operative House Construction Society Ltd.,
Makkal Mandram, Colony Main Road,
Thillai Nagar,
Tiruchirapalli.

+1cc to Mr.D.Sadiq Raja, Advocate SR.No. 77250

+1cc to Mr.S.Giridhar , Advocate SR.No. 77430

Writ Petition Nos.3715 & 23953 of 2019

A.SK(09/09/2019)