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S.A.No.312 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.09.2024

DELIVERED ON : 22.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

S.A.No.312 of 2015
and M.P.No.1 of 2015

Cuddalore Power Company Limited,
Now Cuddalore Power Gen. Corporation,
Rep. by its Authorised Signatory,
No.443, Anna Salai,
Guna Buildings,
Teynampet,
Chennai – 18.

...Appellant

vs.

1.G.Pushpagandhi
2.G.Mohan
3.G.Kalaiveni
4.G.Nagamuthu
5.G.Kalaivanan
6.G.Sakthivel

... Respondents

Prayer : Second Appeal filed Under Section 100 of CPC, against the Judgment and Decree dated 25.03.2015 made in A.S.No.33 of 2014 on the file of III Additional Subordinate Judge, Cuddalore confirming the Judgment and Decree dated 27.03.2014 made in O.S.No.418 of 2008 on the file of the Additional District Munsif, Cuddalore.



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For Appellant : Mr.Srinath Sridevan, Senior Advocate
for Mr.D.Ravichander

For Respondents : Mr.K.Sakthivel
for Mr.K.A.Ravindran

J U D G M E N T

The appellant is the defendant in the suit who had last before the Trial Court and the First Appellate Court. For the sake of convenience, the parties are referred as plaintiffs and defendant as mentioned in the suit.

2.The plaintiffs had filed a suit against the defendant who is Cuddalore Power Company Limited represented by its Manager/Authorized Signatory.

3.The brief facts of the case are as follows:

(i) The suit property is situated in new S.No.196/1 measuring an extent of 2.27.0 hectares out of 6.06.0 hectares and patta No.747 related to old S.Nos.394 and 395/2 in Kudikkadu village in Cuddalore District. The plaintiffs had filed the suit for declaration of their right and title over the suit property and for permanent injunction restraining the defendant from interfering with their peaceful possession and enjoyment of the suit property. The plaintiff contended that they are in possession and they have absolute title over the suit property



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whereas the defendant is the registered company under the Companies Act, 1956 having their Head Office at Chennai.

(ii).The defendant had proposed to construct Electricity Production Unit at Cuddalore Taluk for which they were in need of large extent of land at Thiyyagavalli and Kudikkadu Villages at Cuddalore Taluk.

4.The plaintiffs contended that when the lands are acquired for a company, more specifically for production of electricity, the respective State Governments will acquire the land by following land acquisition law and by following due procedures as contemplated under the Land Acquisition Act, 1894.

5.The plaintiffs contended that the Government of Tamil Nadu had issued G.O.Ms.No.1986, Public Works Department, dated 08.08.1986 declaring the lands in Thiyyagavalli and Kudikkadu Villages measuring an extent of 800 acres to be acquired for the establishment of Thermal Power Station by the Tamil Nadu Electricity Board. However, the said lands were not acquired. The Inspector General of Registration had issued instructions to the District Registrar and the Joint-II Sub Registrar, Cuddalore not to register the



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documents in the aforesaid two Villages except in favour of the defendant. The said notification was displayed in the notice board of the Joint-II Sub Registrar, and there was another Circular compelling the land owners not to sell the properties to anyone except the defendant.

6.The plaintiffs contended that the Government Order, instructions and Circular issued by the Government of Tamil Nadu were illegal, ultra vires and null & void as against the protection of right to own a property guaranteed under the Constitution of India. Since the Government has issued such directions, the land owners were threatened and they sold the properties to the defendant.

7.The plaintiffs out of ignorance had believed that the properties could be sold only in favour of the defendant for the rates fixed by the defendant. Due to the compulsion and threat wielded by the defendant, the plaintiffs had sold the property for pittance in favour of the defendant. The plaintiffs contended that there was no necessity for the plaintiffs to sell the suit property. The defendant joined hands with the Government of Tamil Nadu and misrepresented by playing fraud and obtained the suit property. The suit property was sold in favour of the defendant by the plaintiffs on 21.08.2007 for a sale consideration of Rs.4,53,600/- which was unilaterally decided by the defendant.



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8.The plaintiffs contended that the suit property was valued at Rs.81,000/- per acre by the defendant as sale consideration which was very low and the said amount was unilaterally fixed by the defendant which is contrary to the market or guideline value.

9.Farmers who hail from Thiyaavalli Village formed an Association in the name of Thiyaavalli Panchayathaisarntha Nochikadu Grama Vivasayigal Padhukappu Matrum Makkal Podhunala Sangam. A writ petition in W.P.No.11453 of 2007 was filed by the said Association challenging the notice, dated 23.10.2006 affixed in the office of the Joint - II Sub Registrar, Thiruppadiripuliyur, Cuddalore and the letter of the District Registrar, Cuddalore District, dated 10.02.2007 by which the authorities of Registration department refused to register documents pertaining to the villages namely, Thiyaavalli and Kudikkadu Villages which are not in favour of the defendant by referring to the instruction of the Inspector General of Registration, Chennai dated 11.12.2006 and G.O.Ms.No.1986, Public Works Department, dated 08.08.1986.

10.The Hon'ble First Bench of this Court by its order dated 05.03.2008,



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had quashed the notice, dated 23.10.2006 affixed in the office of the Joint - II Sub Registrar, Thiruppadiripuliyur, Cuddalore and the letter of the District Registrar, Cuddalore District, dated 10.02.2007 as non-est in law. The plaintiffs contended that pursuant to the aforesaid order of the Hon'ble First Bench of this court, the sale made by the plaintiffs in favour of the defendant vide Sale Deed dt. 21.08.2007 has become void.

11.The plaintiffs contended that they are in enjoyment of the suit property and they are prepared to return the sale consideration of Rs.4,53,600/- and prayed to declare their right and title over the suit property.

12.The defendant filed a written statement denying the contentions made in the plaint. The defendant contended that G.O.Ms.No.1986, Public Works Department, dated 08.08.1986 has nothing to do with the defendant as the defendant company itself was started only on 22.11.1993. Hence, the contention of the plaintiffs that the impugned orders of the Respondents were struck down by this Court in W.P.No.11453 of 2007 has no bearing in the above suit.

13.The defendant specifically denied the alleged Circular and instructions



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given by the Inspector General of Registration to the District Registrar,

Cuddalore directing not to register any document in favour of anyone except the defendant and that the notice was displayed in the Registrar Office. The defendant further denied the allegation that the Government was misused to compel the plaintiffs to sell the property in favour of the defendant and that there was threat and coercion by the defendant, the State Government as alleged by the plaintiff for execution of the Sale Deed in favour of the defendant. The defendant specifically denied the contention that the plaintiffs were in continuous possession of the suit property.

14.The defendant's specific case is that the price was negotiated and on the consensus between plaintiffs and the defendant, the Sale Deed was executed in favour of the defendant on 21.08.2007 for a valuable sale consideration of Rs.4,53,600/-. The defendant's further case is that after the execution of Sale Deed on 21.08.2007, the Revenue Records were mutated in the name of the defendant on 20.12.2007. The defendant is in possession from the date of execution of Sale Deed. The plaintiffs had received a sum of Rs.2,80,000/- by way of 2 cheques drawn in the name of sixth plaintiff as per the request made by the first plaintiff for the cashew trees which were standing in the suit property.



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15. According to the defendant, the plaintiffs had suppressed the vital information about the receipt of the said Rs.2,80,000/-. The defendant had contended that due to competition between the defendant and Chemplast Sanmar Ltd., there was an increase in the value of lands. Hence, taking advantage of the situation, the plaintiffs had instituted the suit seeking to declare the title.

16. The Trial Court had formulated the following issues:

1. Whether the sale deed dated 21.08.2007 in favour of the defendant was executed subject to any conditions or under the circumstances as alleged in para (8) of the plaint.

2. Whether the suit framed is not maintainable without a prayer to set aside the sale in favour of the defendant?

3. Whether the defendant is in possession and enjoyment of the suit property?

4. Whether the valuation of suit and court fee paid is not correct?



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5. Whether the plaintiff is entitled to the relief of declaration and for permanent injunction?

6. To what relief, if any, the plaintiff is entitled to?

17. Before the Trial Court, the plaintiffs were examined PW1 to PW4 and marked Exs.A1 to A9. The defendant was examined as DW1 and Exs.B1 to B14 were marked on the side of the defendant. CW1 was examined as Court witness and Exs.X1 to X4 were marked as Court documents.

18. The Trial Court observed that Ex.A3 is the Sale Deed dated 21.08.2007 executed in favour of the defendant by the plaintiffs in respect of the suit property measuring to an extent of 5 acres 60 cents for a sale consideration of Rs.4,53,600/-, paid by way of 2 cheques dated 21.08.2007 for a sum of Rs.2,50,000/- and Rs.2,03,600/- in favour of the plaintiffs. Ex.B1 is the receipt signed by the sixth plaintiff that he obtained a sum of Rs.2,80,000/- on 21.08.2007 by way of 2 cheques.

19. Ex.B3 is the document issued by the Joint – II Sub Registrar, in respect of Kudikkadu Village which shows that the guideline value of S.No.196



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is Rs.16,500/- as on 2006 and 2007. Ex.B4 is the xerox copy and the same was disregarded.

20.The Trial Court answered the issue No.1 in the following terms:

PW2 had admitted in the cross examination that Ex.B1 is the receipt of payment of Rs.2,80,000/- in addition to the sale consideration given by the defendant to the plaintiff. The Trial Court considered the evidence of PW3, the Joint -II Sub Registrar, Cuddalore who produced Exs.X1 and X2 which are the land acquisition G.O.Ms.No.1986, Public Works Department, dated 08.08.1986 and the letter given by the Inspector General of Registration directing the District Registrar, Cuddalore to register Sale Deeds pertaining to the lands in Thiyyagavalli and Kudikkadu Villages executed only in favour of the defendants. DW1 had admitted the Ex.A3 Sale Deed but objected to Ex.X1 and Ex.X2.

21.The Trial Court on considering the evidence of PW1 and PW2 had come to the conclusion that the sale consideration was not voluntarily accepted by the plaintiffs and Ex.A3 Sale Deed in favour of the defendant is not voluntary and Ex.A3 was obtained by the defendant because of the shelter given by Exs.X1 and X2. Therefore, the Trial Court has decided the issue in favour of the plaintiffs.



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22.The Trial Court while answering the second issue has come to the conclusion that pursuant to the orders passed in W.P.No.11453 of 2007 dated 05.03.2008, the Sale Deed in favour of the defendant is vitiated. It is not at all a sale in the eyes of law and as such the second issue was answered in favour of the plaintiffs.

23.The Trial Court while answering the third issue regarding possession and enjoyment of the suit property had come to the conclusion that though Ex.B5 is the patta in the name of the defendant company, Ex.B9 is the Adangal extract of the suit property which stands in the name of one Samikannu and the defendant and Exs.B10 to B13 are the Adangal extract which stands in the name of the defendant and all the Revenue Records were mutated in the name of the defendant, DW1 who was examined on the side of the defendant did not know the survey number and boundaries of the suit property. Apart from the statement that cashew trees were cultivated in the suit property, DW1 did not mention anything about the possession.

24.On the other hand, the plaintiffs contended that they are cultivating in the suit property by planting cashew trees. The xerox copies of patta and 'A'



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register dated 14.08.2007, which stood in the name of the plaintiffs prior to execution of Ex.A3 would show that the plaintiffs were in continuous enjoyment and possession of the suit property. Therefore, the Trial Court had decided the issue No.3 in favour of the plaintiffs. While answering the issue No.4 with regard to the valuation of the suit, the Trial Court has considered Ex.A3 Sale Deed which shows that the suit property is an agricultural property and found that the suit is valued properly and decided the issue in favour of the plaintiffs.

25.While answering the issue Nos.5 & 6 with regard to the plaintiffs entitlement to the relief of declaration, permanent injunction and any other relief, the Trial Court has considered the deposition of DW1 on possession of the suit property and the orders passed by this Court in W.P.No.11453 of 2007 and observed that Ex.A3 is void *abinitio*. In view of the above, the suit was decreed as prayed for.

26.Aggrieved by the Judgment and Decree in O.S.No.418 of 2008 passed by the Additional Munsif Court, Cuddalore, the defendant had filed A.S.No.33 of 2014 before the III Additional Subordinate Judge, Cuddalore.

27.The First Appellate Court concurred with the Judgment and Decree passed in O.S.No.418 of 2008 and dismissed the appeal filed by the plaintiffs.



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The First Appellate Court considered the Ex. X1 to X4 which were marked as Court documents. The First Appellate Court has found that vide Ex. X4 dated 21.11.2006, the defendant has requested the Government to issue an instruction or circular not to register any document in respect of lands in two villages namely Thiyaagavalli and Kudikadu in favour of anyone except the defendant. The Inspector General of Registration has issued the circular in Ex.X2 dated 11.12.2006 as per the request of the defendant in Ex.X4.

28.The First Appellate Court had taken note of the order passed by the Hon'ble First Bench of this Court in W.P.No.11453 of 2007 dt. 05.03.2008 and observed that the coercion and threat need not be physical in nature. The plaintiff has pleaded in the plaint there was threat and coercion by the defendant as well as by the Government that they have no other option except to sell the property to the defendant. At the time of executing Ex.A3 there was a circular i.e. Ex.X2 prohibiting sale of properties to anyone except the defendant. So the contention of the plaintiffs that they were threatened and forced to sell the property as per the terms dictated by the defendant is found to be genuine. Hence the First Appellate Court held that there was coercion and undue influence in execution of Ex.A3 by the defendant.

29.The First Appellate Court held that the suit is properly valued and the



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plaintiffs need not seek a relief of cancellation of Ex.A3 with the following observations:

...It is pertinent to note that there is no transaction in the said village from the past several years due to the operation of G.O.M.S.1986. It is glaring in the mind of this court the sale price between Ex.A3 and Ex.A7 to Ex.A9 which is alarming. The sale consideration paid as per Ex.A3 is Rs.81,000/- per acre. The sale consideration in Ex.A7, Ex.A8, Ex.A9 is Rs.20,00,000/- (Twenty Lakhs) per acre. There is a manifold increase (24 times) after the quashing of Registration Department order issued in favour of the defendant. As soon as the Hon'ble High Court has quashed the circular issued in favour of the defendant the price of lands in the said village had been increased for more than twenty four times. It is a mischief played on the ordinary citizens of the said two villages who were illegally and unconstitutionally forced to give away their valuable property. Further as held earlier as per the documentary evidence available on record and the oral evidence adduced on both sides Ex.A3 was executed not in free consent and for lawful consideration. Hence it is a void transaction as per Sec.10 of Contract Act. Hence the contention of the appellant that it is a voidable Contract is not convincing.



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30.The First Appellate Court considered the statement of DW1 and observed that the defendant has not adduced evidence to prove that they are doing agricultural activity.

31.The First Appellate Court has observed that despite the fact that the Revenue Records stands in the name of the defendant, the plaintiffs were in actual possession of the suit property and the judgment and decree of the Trial Court in O.S.No.418 of 2008 need not be interfered with.

32.For the above reasons, the First Appellate Court had dismissed the appeal filed by the defendant/appellant and confirmed the judgment and decree of the Trial Court. Challenging the same, the appellant has filed the present Second Appeal.

33.The Second Appeal was admitted on the following Substantial Question of Law:

a.Are the Courts below are right in decreeing the suit by misinterpreting or misreading the document namely, Ex.A4, the order of this Court holding that the sale in favour of the defendants as non-est, when this Court had never held so in its order?



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b.Are the Courts below right in decreeing the suit in absence of any prayer seeking for cancellation of documents, which had been executed voluntarily?

c.Are not the Courts right in holding that the sale obtained by the defendant is by coercion merely because of the order of this Court in quashing the GO of the Government of Tamil Nadu, in which admittedly, the defendant is not a party to it?

34.Mr.Srinath Sridevan, learned Senior Counsel for the appellant contended that the plaintiffs had not prayed to set aside the Sale Deed executed in favour of the appellant/defendant. The Sale Deed dated 21.08.2007 is executed for a valid sale consideration of Rs.4,53,600/-. The Hon'ble First Bench of this court in its order dated 05.03.2008 in W.P.No.11453 of 2007 has not made any observation on the sale executed in favour of the defendant in Ex.A3 and the defendant is not a party to the said writ petition. The relevant paragraphs of the order passed in W.P.No.11453 of 2007 dated 05.03.2008 is extracted hereunder:

2.According to the petitioner, the Government of Tamil Nadu issued a notification in G.O.Ms.No.1986, Public Works Department, dated 8.8.1986 declaring that the lands in the villages of Thiyaavalli and Kudikkadu



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measuring an extent of 800.00.00 hectares out of the total extent of 910.40.5 hectares were to be acquired for the establishment of a Thermal Power Station by the first respondent Board.

4.The present grievance of the petitioner is that certain lands were registered by the third respondent in favour of a private company limited, called “Cuddalore Power Company Ltd.,” under document No.26 of 2007, dated 4.1.2007 and document No.156 of 2007, dated 18.1.2007. However, when one Thiru.Kennedy, who owned some lands in the said village presented a sale agreement, dated 29.1.2007 in favour of the deponent to the affidavit, the third notice displayed in the office of the third respondent, dated 23.10.2006, as well as by referring to G.O.Ms.1986, dated 8.8.1986 and the latter of the first respondent, dated 8.9.2006.

13.If at all the respondents can seek protection for their action, it could have been under the provisions of the Registration Act. The only provision under which the prohibition from registration can be traced is Section 22-A of the said Act which specifically provides that the State Government may by notification in the Tamil Nadu Government Gazette declare that the registration of any document or class of documents is opposed to public policy and notwithstanding anything contained in the Act, the registering officer can refuse to register any document to which a notification issued under sub-section (1) is



applicable. The provision came to be inserted by way of an amendment with effect from 28.8.1997. Invoking the said provision, a notification came to be issued in G.O.Ms.150, Commercial Taxes, dated 22.9.2000. Under the said notification, the documents relating to conveyance of properties belonging to the Government, local authorities, religious institutions or conveyance of properties assigned to or held by the Tamil Nadu State Government Boodan Yagna Board and the Tamil Nadu Wakf Board have been declared as documents opposed to public policy. Therefore, it was notified that no registration of any document with reference to those properties can be entertained.

17.Applying the above said principle to the facts of this case, we have no hesitation to hold that the impugned proceedings of the respondents are liable to be set aside as non-est in law. Accordingly, setting aside the proceedings, the prayer of the petitioner stands allowed and the respondents are directed to receive and register all the documents present by them for registration pertaining to the villages namely, Thiyagavalli and Kudikkadu, if such documents satisfy the stipulations contained in the Registration Act or any other enactment governing such registration.

35.Learned Senior Counsel for the appellant submitted that the Chairman of Tamil Nadu Electricity Board, Chennai, the Inspector General of



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Registration, Chennai, the Joint – II Sub Registrar, Thiruppadiripuliyur,

Cuddalore and the District Registrar, Cuddalore are the respondents in the above writ petition. The prayer in the writ petition was to call for the records in relation to the notice, dated 23.10.2006 affixed in the office of the Joint - II Sub Registrar, Thiruppadiripuliyur, Cuddalore and the letter of the District Registrar, Cuddalore District, dated 10.02.2007, to quash the said proceedings and direct the respondents to receive and register all the documents presented to them for registration pertaining to the lands situated in the villages of Thiyaagavalli and Kudikkadu under the provisions of the Registration Act. It is seen from the records that the aforesaid orders impugned in the writ petition were issued by the Respondents therein by referring to the instruction of the Inspector General of Registration, Chennai dated 11.12.2006, marked as Ex. X2 and G.O.Ms.No.1986, Public Works Department, dated 08.08.1986.

36.Learned Senior Counsel for the appellant would contend that the appellant company had come into existence only on 22.11.1993. Therefore, the said G.O.Ms.No.1986, Public Works Department dated 08.08.1986 has nothing to do with the defendant. Ex.A3 Sale Deed was executed by the plaintiffs for a sale consideration of Rs.4,53,600/- on 21.08.2007 whereas the Order in W.P.No.11453 of 2007 was passed by this Court on 05.03.2008. The dates



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which assume significance are as follows:

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(i) 08.08.1986 - G.O.Ms.No.1986, Public Works Department, dated 08.08.1986.

(ii) 21.08.2007 - Ex.A3 Sale Deed executed in favour of the defendant by the plaintiffs.

(iii) 05.03.2008 - The order passed in W.P.No.11453 of 2007.

(iv) 17.09.2008 - The suit filed by the plaintiffs.

37.Learned Senior Counsel for the appellant would contend that the suit was filed by the plaintiffs on 17.09.2008. On the date of filing of suit, the plaintiffs were aware that notice, dated 23.10.2006 affixed in the office of the Joint - II Sub Registrar, Thiruppadiripuliyur, Cuddalore and the letter of the District Registrar, Cuddalore District, dated 10.02.2007 were quashed by this Court in W.P.No.11453 of 2007 on 05.03.2008. It is pertinent to note that the Sale Deed marked as Ex.A3 was executed by the plaintiffs as early as on 21.08.2007. This only shows that the suit filed by the plaintiffs is only an after thought and quashing of the impugned orders has nothing to do with the Sale Deed executed by the plaintiffs in favour of the defendant.

38.Learned Senior Counsel for the appellant would contend that the suit



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property is not the subject matter of the said writ petition. The order in

W.P.No.11453 of 2007 is not helpful to the case of the respondents/plaintiffs as the finding of this Court was rendered on the ground “under what provision of law the respondent issued a circular restraining the individual land owners in the above two villages from transferring their lands either by way of sale or by any other mode to any third party other than M/s.Cuddalore Power Company Ltd., and refused to register such documents”. Quashing of the impugned orders in the above writ petition has no consequential effect for the Sale Deed executed by the plaintiffs on 21.08.2007.

39.Learned Senior Counsel appearing for the appellant would contend that the Courts below had failed to take into consideration that the sixth plaintiff had received a sum of Rs.2,80,000/- on 21.08.2007 as additional sale consideration for the standing cashew trees.

40.Learned Senior Counsel for the appellant would contend that negotiations between the plaintiffs and the defendant with respect to the sale consideration for the sale of suit property went on for 5 to 6 years and the same was admitted by PW2 in his cross examination. Therefore, the sale is voluntarily executed by the plaintiffs and there is no question of fraud,



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misrepresentation and coercion by the defendant for execution of Ex.A3. The only reason for filing of suit by the plaintiffs is the increase in value of the suit property subsequent to the execution of Ex.A3 .

41.Per contra, Mr.Sakthivel, learned counsel for the respondent would contend that the Circulars related to the land proposed to be acquired for the formation of Thermal Station was quashed by this Court and in view of the same, the Sale Deed executed by the plaintiffs in favour of the defendant has become null and void.

42.Learned counsel for the respondent would contend that the Sale Deed was executed by the plaintiffs only due to the fraud and misrepresentation by the appellant/defendant and when the Sale Deed was executed only as a result of misrepresentation coupled with threat and coercion made by the appellant, then the execution of Sale Deed is absolutely void and therefore, registration of Sale Deed under the Registration Act itself is not sufficient when the respondent/plaintiffs had proved that the Sale Deed was executed by coercion along with aid of the Government Officials.



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43.Learned counsel for the respondent has drawn the attention of this

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31.When cancellation may be ordered.- (1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2).If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

By referring to the above provision, learned counsel for the respondents submitted that there is a distinction between the void and voidable instruments. According to the learned counsel for the respondents, the Sale Deed was executed only as a result of misrepresentation and coercion by the appellant. Though the learned counsel had emphasized that the Sale Deed marked as Ex.A3 is voidable, there is no specific pleading in the plaint to explain the



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misrepresentation and coercion by the appellant. In the absence of any concrete material produced by the respondents, Ex.A3 cannot be considered as a voidable instrument. That apart, having referred to the above provision, the learned counsel for the respondents has not clarified as to how the respondents are entitled for the relief of declaration of title and permanent injunction without a prayer to set aside the Sale Deed in Ex.A3 as per Section 31 of the Specific Relief Act, 1963.

44.Learned Senior Counsel for the appellant has relied upon the following judgments:

(i).In the case of ***Salar Jung Sugar Mills Ltd. etc vs. State of Mysore and Others*** reported in ***1972(1) SCC 23***, the Hon'ble Supreme Court has observed as follows:

19.Counsel on behalf of the appellants contended that there was no sale and purchase of sugarcane by reason of want of mutual assent and further that the entire transaction was only by operation of statutes, and at no stage there was any element of freedom to buy or sell. It was said that under the statutes these consequences emerged. First, the price was fixed. Secondly, the sugarcane grower was required to deliver sugarcane and the factory was required to receive supply only from the sugarcane grower in the reserved area. Thirdly, the quantity of supply by the sugarcane grower, namely 95 percent of the produce



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was fixed. Fourthly, the quantity of sugarcane required by the factory was fixed at 1,50,000 tons a year. Fifthly, the grower in the reserved area could not export sugarcane to any place or person outside the area. Sixthly, it was said that entering into agreement between the grower and the factory for supply and purchase of sugarcane was under the statute.

20.Counsel for the State on the other hand contended that the transaction was in essence and substance purchase and sale and there was mutual assent between the parties as to the transactions. It was said that a grower after he had grown sugarcane at the commencement of the cultivation season might bargain for a price higher than the minimum price. Again, if the factory did not agree to pay higher price the grower might not elect to grow sugarcane or even allow his land to lie fallow. The factory might agree to pay a price higher than the minimum price in order to provide sufficient inducement to growers for higher yield. Strong reliance was placed by counsel for the State on the agreement entered into between the growers and the factory as decisive of purchase and sale. As to the agreement it was said on behalf of the State that to ensure a well-phased supply of sugarcane to the factory the latter might enter into an agreement with the growers even before they would plant sugarcane. The dates of delivery were to be agreed upon between the parties. The growers according to the State might ask for advance payment of price in cash or in the



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form of seedlings, fertilisers and the like. Factories could ask for more than 95 per cent of the yield.

21.At all relevant times sugarcane was declared to be an essential commodity. The various orders were made for regulating the supply of sugarcane to the factories having regard to the crushing capacity of the factory, the availability of sugarcane in the area and the need for production of sugarcane. This coordination between production and distribution of sugarcane on the one hand and production and distribution of sugar on the other hand together as complementary to each other in regard to the requirements of basic ingredient. The carving out of areas for production and distribution of sugarcane is necessary to preserve continuity of supply and to prevent shortage and defective distribution. The regulation of supply of sugarcane by fixing the minimum price is an application of the principle of utilitarianism which receives the approbation and goodwill of both the grower and the factory so that the grower is assured of an economic competitive return and the factory is also assured of not being scared by soaring and fluctuating price to thwart and impede production and manufacture of sugar.

25.The majority view in the case of New India Sugar Mills Ltd. was on the reasoning that the pre-requisite to a sale was a contract of sale which was to be had between the parties. The Province of Madras intimated its requirements



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to the Controller. The Controller called upon the manufacturing units to supply sugar to the Province. It was held that the Controller did not act as an agent of the Province to purchase goods but that he acted in exercise of his statutory authority. Therefore, there was no offer by the Province to purchase sugar and there was no acceptance of offer by the manufacturer. The ratio was that there was no privity between the manufacturer and the Province. The minority view in that case was that there might be compulsion in both buying and selling but a compelled sale might nevertheless be a sale. Hidayatullah, J., for the minority view said “the affairs of the world are very complicated and sales are not always in their elementary forms. Due to short supply or maldistribution of goods, controls have to be imposed. There are permits, price controls, rationing and shops which are licensed. Can it be said that there was no sale because mutuality is lost on one account or another? It was not said in the case of Tata Iron and Steel Co. Ltd. v. State of Bihar [AIR 1958 SC 452 : (1958) SCR 1355] which was a case of control, that there was no sale. The entry should be interpreted in a liberal spirit and not cut down by narrow technical considerations. The entry in other words should not be shorn of all its content to leave a mere husk of legislative power. For the purposes of legislation such as on sales tax it is only necessary to see whether there is a sale express or implied. Such a sale was not found in forward contracts and in respect of materials used in building contracts. I am of



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opinion that in these transactions there was a sale of sugar for a price and the tax was payable”.

In view of the above, the Hon'ble Supreme Court has considered whether there was freedom to buy or sell and laid 4 conditions to examine whether the parties were free to buy or to sell. Though the above case relates to the purchase and selling of sugarcane, whether there was free will between the parties was determined on 4 grounds. Relevant portion of the findings is also extracted hereunder:

Hedge, J., speaking for the Court referred to the observations in Cheshire and Fifoot Law of Contract (6th Ed.) at. p.22 and said “Law invariably imposed some restrictions on freedom of contract. But due to change in political outlook and as a result of economic compulsions, the freedom of contract is now being confined gradually to narrower and narrower limits. It would be incorrect to contend that because law imposes some restrictions on freedom to contract, there is no contract at all. So long as mutual assent is not completely excluded in any dealing, in law it is a contract”. The transactions were held to be sales because the date for supply of goods, the time for payment and the independent arrangement between the parties for transport predicated the basis of mutual assent.



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It is clear that as decided in the above case, when there was free will between the parties to sell the property without any coercion, the same cannot be disputed at a latter point of time.

(ii).In the case of ***Vellaya Konar (Died) and Another vs. Ramaswami Konar and Another*** reported in ***1939 SCC OnLine Mad 149***, the Hon'ble Court has held as follows:

...Leaving aside for the moment the complication due to the fact that the plaintiff in this suit sues in a representative capacity, the distinction between the two classes of suits seems to me to be well established by the decisions. When the plaintiff seeks to establish a title in himself and cannot establish that title without removing an insuperable obstruction such as a decree to which he has been a party or a deed to which he has been a party, then quite clearly he must get that decree or deed cancelled or declared void in toto and his suit is in substance a suit for the cancellation of the decree or deed even though it be framed as a suit for a declaration. But when he is seeking to establish a title and finds himself threatened by a decree or a transaction between third parties, he is not in a position to get that decree or that deed cancelled in toto.

...My attention has not been drawn to any decision which throws any real doubt on the general proposition that



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when a person seeks to establish title which cannot be established without removing a decree or an instrument to which he is himself a party, then whatever be the garb in which he dresses his suit, its substantial character must be a suit for the cancellation of the decree or instrument; but if the establishment of his title is being impeded by the effect of a transaction between other parties, he cannot legitimately ask for the cancellation of that transaction but can only ask for a declaration that so far as he is concerned, it is not binding.

The learned Senior Counsel has relied on the aforesaid judgment and contended that the plaintiffs ought to have sought for cancellation of Ex.A3. Therefore, the suit for declaration of title and permanent injunction without a prayer for cancellation of Ex. A3 is not maintainable.

45.Learned Senior Counsel for the appellant would contend that the suit filed by the plaintiffs is only an after thought. The suit was instituted without any material and without any basis and by suppressing the additional sale consideration for the standing cashew trees to a sum of Rs.2,80,000/- on 21.08.2007 received by the 6th plaintiff.



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46.Learned counsel for the respondent has relied upon the following judgments:

(i). ***Tmt.Nallammal vs. Dhanuskodi*** reported in **2000 (4) CTC 513**. The relevant paragraph of the aforesaid judgment is extracted hereunder:

10. The lower appellate Court, as the final Court of fact, has come to a proper conclusion with regard to the non-genuineness of the agreement. Ex. A. 2. As has been pointed out in the Supreme Court decision Taherakhatoon v. Salambin Mohammed, AIR 1999 SC 1104 that as long as there was some material for the rejection of the document, the Second Appellate Court ought not to interfere with the above said finding of fact reached by the lower Appellate Court.

(ii).In the case of ***Ramathilagam and Others vs. Nambi Naidu and Another*** reported in **2014 (3) MWN (Civil) 519**. The relevant paragraphs of the aforesaid judgment are extracted hereunder:

19.The plaintiffs filed the suit against the defendants for declaration and injunction regarding the suit property in the year 1987 i.e., on 17.08.1987 as O.S.No.1028 of 1987. Even after the filing of the suit, admittedly, the plaintiffs are in possession of the property and the defendants have not chosen to file a suit for recovery of possession from the plaintiffs herein. Even till today from 1987 onwards, the suit is pending and the plaintiffs are in



possession and enjoyment of the suit properties mentioned in the sale deed executed in favour of Ganapathy Naidu. So the argument of the learned counsel for the respondents/plaintiffs that since Ex.B.1 sale deed is sham and nominal one, the defendants have not taken any steps to recover the suit property cannot be rejected.

21.From the above decision, it is made clear when there is a concurrent findings of the lower court and first appellate court, in the second appeal the High court should not interfere with the findings on question of fact.

The learned Counsel for the Respondents has relied on the above two judgments and contended that the appellant has not produced any material for rejection of the findings of the Courts below that the execution of Ex.A3 was made without freewill and as a result of coercion and misrepresentation by the defendant and the Government authorities when the circular in Ex. X2 was in force.

(iii). ***A.C.S. Jayapaul vs. The Church of South India Trust Association, Rep. by its Power Agents, Tiruchirappali & Another*** reported in ***CDJ 2022 MHC 1424***. The relevant paragraph of the aforesaid judgment is extracted hereunder:

10. From the pleadings set out by the parties in the Complaint and in the written statement, it is evident that jural relationship of landlord and tenant between Respondent and Appellant is admitted. Appellant also admitted that he



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was paying monthly rent of Rs.600/- (Rupees six hundred) per month, at the time of issuing termination notice. Appellant has also not denied the issuance of notice dated 09.06.2009, terminating the tenancy. Then it has to be assumed that appellant admitted the issuance of lease termination notice. It is relevant to extract Order VIII Rule 5 of CPC in support of this point:

“5. Specific denial— (1) Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability :

Provided that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission.

(2) Where the defendant has not filed a pleading, it shall be lawful for the Court to pronounce judgment on the basis of the facts contained in the plaint, except as against a person under a disability, but the Court may, in its discretion, require any such fact to be proved.

(3) In exercising its discretion under the proviso to sub-rule (1) or under sub-rule (2), the Court shall have due regard to the fact whether the defendant could have, or has, engaged a pleader.

(4) Whenever a judgment is pronounced under this rule, a decree shall be drawn up in accordance with such



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judgment and such decree shall bear the date on which the judgment was pronounced.”

This Rule makes it clear that if the allegation of fact in the plea is not denied specifically, it shall be taken to be admitted. Section 58 of Indian Evidence Act deals with deemed admission as per rules and pleadings.

“58. Facts admitted need not be proved. No fact need to be proved in any proceeding which the parties thereto their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions”

We found that under Order VIII Rule 5 CPC, if the allegation in the Complaint is not specifically denied, it shall be deemed to have been admitted.

Learned counsel for the respondent relied upon the aforesaid judgment and contended that the appellant/defendant has not specifically denied the fact that due to existence of Ex.X2, the respondents/plaintiffs were forced to sell the suit property only in favour of the defendant as Ex.X2 prohibited the respondents/plaintiffs to sell the suit property in favour of anyone except the



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defendant. Therefore, the appellant/defendant has admitted that the respondents/plaintiffs were forced to sell the suit property in favour of the appellant.

(iv).In the case of ***State of Uttar Pradesh and Ors. vs. Aravindkumar Srivatsava*** reported in **2015 (1) SCC 347**. The relevant paragraph of the aforesaid judgment is extracted hereunder:

22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma v. Union of India [K.C. Sharma v. Union of India, (1997) 6 SCC 721 : 1998 SCC (L&S) 226]). On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.



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The learned counsel for the Respondent relied on the above judgment to contend that the Respondents were forced to sell the suit property due to the circular of the Respondent marked as Ex.X2. Therefore, the Respondents are similarly placed persons as that of the petitioner in W.P.No.11453 of 2007.

(v).In the case of ***Vishal Singh vs. State of Madhya Pradesh*** reported in ***CDJ 1988 SC 552***. The relevant paragraphs of the aforesaid judgment is extracted hereunder:

3....

1.The land had been registered in the revenue records in the names of the appellants and there is a presumption of possession being with them. Consequently the Courts ought to have proceeded on the footing that the other party was the aggressor and made an attempt to trespass on the land. SC309

2.There is ample evidence to show that the members of the other party had lethal weapons including fire-arms when they attempted to trespass on the land.

3.There were empty cartridges near the bodies of the deceased which prove that the deceased had first used fire-arms. Learned counsel concluded that if at all, the appellants could only be said to have exceeded the right of



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self-defence.

4. We are unable to accept any of the aforesaid contentions. No doubt the entry in the revenue record was made in favour of the appellants and their men but such an entry could only give rise to a rebuttable presumption. Admittedly, the proceedings were pending and the parties were challenging the correctness of entries in the revenue records. On the basis of the evidence on record, the High Court has come to the conclusion that the appellants and their men could not be said to have been in possession. The High Court has observed that the statutory presumption under Section 117 of the Madhya Pradesh Land Revenue Code, 1959 was rebutted by the evidence of PW-23 and others who claimed that the disputed land was in their possession. We do not find any error in the appreciation of the evidence made by the High Court. Learned counsel for the respondent, State of Madhya Pradesh has drawn our attention to the relevant records and submitted that the entries in the records do not substantiate the case of the appellants as the names of other persons were also mentioned therein as in possession. It is unnecessary for us to consider that aspect of the matter in these proceedings. It is sufficient to point out that the conclusion of the High Court on the question of possession does not suffer from any error.

The learned counsel for the Respondent relied on the above judgment to contend that Ex. B5 to B14 are not sufficient to prove the possession of the



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Respondent in the suit property.

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(vi). ***Rajasthan State Industrial Development and Investment Corporation vs. Subhash Sindhi Cooperative Housing Society, Jaipur and Others*** reported in ***(2013) 5 SCC 427***.

17. The word “void” has been defined as :
ineffectual; nugatory; having no legal force or legal effect; unable in law to support the purpose for which it was intended. (Vide Black's Law Dictionary.) It also means merely a nullity; invalid; null; worthless; cipher; useless and ineffectual and may be ignored even in collateral proceeding as if it never were.

18. The word “void” is used in the sense of incapable of ratification. A thing which is found non est and not required to be set aside, though it is sometimes convenient to do so. There would be no need for an order to quash it. It would be automatically null and void without more ado. The continuation orders would be nullities too, because no one can continue a nullity. (Vide *Behram Khurshid Pesikaka v. State of Bombay* [AIR 1955 SC 123 : 1955 Cri LJ 215], *Pankaj Mehra v. State of Maharashtra* [(2000) 2 SCC 756 : 2000 SCC (Cri) 556 : AIR 2000 SC 1953], *Dhurandhar Prasad Singh v. Jai Prakash University* [(2001) 6 SCC 534 : AIR 2001 SC 2552] and *Govt. of Orissa v. Ashok Transport Agency* [(2002) 9 SCC 28] .)



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19. Even if the lands of other similarly situated persons have been released, the Society must satisfy the Court that it is similarly situated in all respects, and has an independent right to get the land released. Article 14 of the Constitution does not envisage negative equality, and it cannot be used to perpetuate any illegality. The doctrine of discrimination based upon the existence of an enforceable right, and Article 14 would hence apply, only when invidious discrimination is meted out to equals, similarly circumstanced without any rational basis, or to relationship that would warrant such discrimination. [Vide Sneh Prabha v. State of U.P. [(1996) 7 SCC 426 : AIR 1996 SC 540], Yogesh Kumar v. Govt. (NCT of Delhi) [(2003) 3 SCC 548 : 2003 SCC (L&S) 346 : AIR 2003 SC 1241], State of W.B. v. Debasish Mukherjee [(2011) 14 SCC 187 : (2012) 2 SCC (L&S) 869 : AIR 2011 SC 3667] and Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433 : (2012) 2 SCC (L&S) 367] .]

The learned counsel for the Respondent relied upon the aforesaid judgment and contended that as the Ex.A3 is said to be void pursuant to the order of the Hon'ble First Bench of this court in W.P. No.11453 of 2007, the plaintiff need not file a suit to set aside Ex.A3 as contended by the appellant.

47. Admittedly, the plaintiffs executed the Sale Deed dated 21.08.2007 for



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a sale consideration of Rs.4,53,600/-. The order was passed by this Court in

W.P.No.11453 of 2007 on 05.03.2008. The suit was initiated on 17.09.2008.

Before the Trial Court, there was no prayer in the suit to set aside the Sale Deed executed in favour of the appellant/defendant.

48.At this juncture, it is important to refer Section 54 of the Transfer of Property Act and the same is extracted hereunder:

54. “Sale” defined

“Sale” is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

***Sale how made**—Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.*

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.



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Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale—*A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.*

It does not, of itself, create any interest in or charge on such property.

49.It is true that the Sale Deed was executed between the appellant and the respondents for a valid sale consideration and once the sale is completed, the transfer of ownership is exchanged for the sale consideration paid pursuant to the Sale Deed. In view of the same, the arguments advanced by the respondents that the sale is void or voidable does not have much weightage in the absence of any materials contrary to the recitals that the respondents had received the valuable sale consideration.

50.The Courts below had miserably failed to note that the sale has taken place for a valuable sale consideration. When the respondents had not even



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made any complaints to the Sub Registrar or issued any legal notice to the appellant contending that they were misled or coerced at the hands of the appellant, the respondents are not justified in filing a suit for declaration of title after the order passed in W.P.No.11453 of 2007 with a contention that the Sale Deed was executed only because of the misrepresentation and coercion exerted by the appellant.

51.Exs.A7 to A9 Sale Deeds were marked on the side of the respondents before the Trial Court to show that the sale considerations in the Sale Deeds are higher than that of the Sale Deed in Ex.A3. This Court cannot evaluate the reasons for increase in price determined in different Sale Deeds as the hike in land value would be based on different aspects. In the absence of any materials produced before the Trial Court and the First Appellate Court to point out the reasons for higher sale consideration in Exs.A7 to A9 when compared to Ex.A3, it cannot be concluded that the respondents were misrepresented and coerced to execute the Sale Deed in favour of the appellant.

52.The first Substantial Question of Law is that *“Are the Courts below are right in decreeing the suit by misinterpreting or misreading the document namely, Ex.A4, the order of this Court holding that the sale in favour of the*



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defendants as non-est, when this Court had never held so in its order?"

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The Hon'ble First Bench of this Court in W.P.No.11453 of 2007 has quashed the notice, dated 23.10.2006 affixed in the office of the Joint - II Sub Registrar, Thiruppadiripuliyur, Cuddalore and the letter of the District Registrar, Cuddalore District, dated 10.02.2007 as non-est in law and directed the respondents therein to receive and register all the documents presented to them for registration pertaining to the lands situated in the villages of Thiyaagavalli and Kudikkadu under the provisions of the Registration Act. Before the execution of Ex.A3, the plaintiffs had chosen not to challenge the proceedings of the Inspector General of Registration, Chennai dated 11.12.2006 which was marked as Ex.X2. The plaintiffs proceeded to sell the property vide Ex.A3 which is a valid Sale Deed. The findings in the said order is only related to the proceedings of the authorities in the Registration department. In the order of the Hon'ble First Bench of this Court in the said writ petition, there was no observation declaring the Sale Deed in Ex.A3 as non-est. Therefore, the Courts below are not right in decreeing the suit by misinterpreting or misreading Ex.A4. In view of the above, the first Substantial Question of Law is answered in favour of the appellant.



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53.The second Substantial Question of Law is that “*Are the Courts below right in decreeing the suit in absence of any prayer seeking for cancellation of documents, which had been executed voluntarily?*”.

The respondents had executed the Sale Deed in favour of the appellant which was marked as Ex.A3. The Courts below have miserably failed to note that the respondents after executing the Sale Deed which was duly registered before the Sub Registrar Office, Cuddalore for a valuable sale consideration has filed the suit for declaration of title and permanent injunction. It is to be noted that the W.P.No.11453 of 2007 was allowed by this Court on 05.03.2008. The suit was filed by the plaintiffs on 17.09.2008. This clearly shows that the plaintiffs had thought fit to file a suit subsequent to the order passed in W.P.No.11453 of 2007 on 05.03.2008 when the Sale Deed marked as Ex.A3 was executed on 21.08.2007. The act of filing a suit for declaration of title is only an after thought. As the order of the First Bench in W.P.No.11453 of 2007 dealt only with the proceedings impugned thereon without any observation of the Sale Deed in Ex.A3, the sale in Ex.A3 does not become automatically void as it is binding on both the parties.

This Court had an occasion to come across the judgment of the Hon'ble Supreme Court in the case of **MD. Noorul Hoda Vs. Bibi Raifunnisa And**



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Others, reported in **(1996) 7 SCC 767**. The relevant portion of the judgment is

extracted hereunder:

When the plaintiff seeks to establish his title to the property which cannot be established without avoiding the decree or an instrument that stands as an insurmountable obstacle in his way which otherwise binds him, though not a party, the plaintiff necessarily has to seek a declaration and have that decree, instrument or contract cancelled or set aside or rescinded. Section 31 of the Specific Relief Act, 1963 regulates suits for cancellation of an instrument which lays down that any person against whom a written instrument is void or voidable and who has a reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, can sue to have it adjudged void or voidable and the court may in its discretion so adjudge it and order it to be delivered or cancelled.

In view of the above judgment, the appropriate remedy available for the plaintiffs to claim right over the suit property is to file a suit for cancellation of Ex.A3 Sale Deed. Therefore, the Courts below are not right in decreeing the suit for declaration of title and permanent injunction without a prayer for cancellation of Ex.A3. In view of the above, the second Substantial Question of Law is answered in favour of the appellant.



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54.The third Substantial Question of Law is that “*Are not the Courts right in holding that the sale obtained by the defendant is by coercion merely because of the order of this Court in quashing the GO of the Government of Tamil Nadu, in which admittedly, the defendant is not a party to it?*”

The respondents/plaintiffs had executed the Sale Deed for a valid sale consideration and they have not filed any application with a complaint of coercion before the Sub Registrar, Cuddalore where the documents were registered. Instead, filed a suit for declaration of title and permanent injunction immediately after the registration of Ex.A3, the Sale Deed dated 21.08.2007. When the respondents/plaintiffs had not challenged the Sale Deed in the manner known to law with a prayer to cancel the same on the ground of coercion, fraud or misrepresentation, the conclusion arrived by the Trial Court and the First Appellate Court that the sale is vitiated pursuant to the order of the this court in W.P.No.11453 of 2007, more specifically when the respondents/plaintiffs were not a party to the writ petition is fatal and *per se* contrary to the facts.

In W.P.No.11453 of 2007, the Hon'ble First Bench of this Court held that the Authorities of the Registration Department are not justified in refusing to



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register the documents presented to them by referring to an executive order directing them not to register the lands in the said villages in favour of anyone except M/s.Cuddalore Power Company Limited. The impugned proceedings were quashed for the reason that a person cannot be deprived of his rights to property by a mere executive orders. Such power can be exercised only by the Authority of law as held by the Hon'ble Supreme Court in a catena of cases. The Hon'ble First Bench of this Court has not dealt with the aspect of sale executed by the plaintiff in favour of the defendant company vide Ex.A3. Therefore quashing of proceedings impugned in W.P.No.11453 of 2007 does not render the sale executed by the plaintiff in favour of the defendant void on the ground of coercion especially when the defendant is not a party to the said writ petition. In view of the above, the third Substantial Question of Law is answered in favour of the appellant.

55.The evidence of DW1 clearly shows that the plaintiffs were not compelled to sell their land only in favour of the defendant. The appellant/defendant had marked Ex.B5 which is the patta dated 23.09.2013, Exs.B6 to B14 which are the extract of Kist, Adangal extract and 'A' register etc. This Court has taken note of the fact that subsequent to the execution of Ex.A3, the Revenue Records have been mutated in the name of the appellant.



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The said exhibits would show that the appellant is in possession of the suit property. The pendency of the Second Appeal, does not dislodge or give any right to the respondents to claim that they are in possession of the suit property.

56.The respondents did not file even a single document before the Trial Court or before the First Appellate Court to show that they have paid kist or any other documents to establish that they were in actual possession of the suit schedule property. In the absence of any iota of evidence produced before the Trial Court or before the First Appellate Court by the respondents/plaintiffs, a mere contention that they were in actual possession of the suit schedule property cannot be acted upon and such a statement will not have any force in the eye of law. It is thus clear that the findings given by the Trial Court and the First Appellate Court are contrary to the oral and documentary evidence available on record.

57.In view of the same, the Substantial Questions of Law are answered in favour of the appellant and the Second Appeal is allowed and the Judgment and Decree passed in A.S.No.33 of 2014 on the file of the III Additional Subordinate Court, Cuddalore is set aside. No costs. Consequently, connected miscellaneous petition is closed.



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22.10.2024

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Index : Yes/No

Speaking order

Neutral Citation: Yes

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To

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- 1.The III Additional Subordinate Judge, Cuddalore.
- 2.The Additional District Munsif, Cuddalore.



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N.SENTHILKUMAR, J.

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Pre-delivery judgment in
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22.10.2024