

W.A (MD) No. 462 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.04.2025

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DELIVERED ON : 03.06.2025

CORAM

THE HONOURABLE MRS. JUSTICE J NISHA BANU

and

THE HONOURABLE MRS. JUSTICE S. SRIMATHY

W.A (MD) No. 462 of 2025

SP. VAIRAVAN

S/o Late VE.Subbiah

F-1, 13/7, 2nd Cross Street,

Seethammal Extension,

Teynampet,

Chennai 600018.

... Appellant

Vs.

1. THE SUB-REGISTRAR, JOINT-I
the Sub-Registrar Office, Tenkasi.
2. THE INSPECTOR GENERAL OF REGISTRATION,
No.100, Santhome High Road,
Chennai – 600 028.
3. GREAT LAKES MULTI STATE CO-OPERATIVE
HOUSING SOCIETY LIMITED
Represented by its Chief Executive Officer,
Mr. Sakthivel,
Having registered office at:
No. 76/190, South Car Street,
Srivilliputhur,
Tamil Nadu – 626125.
4. SELVARAJ
S/o Thambiran
Old Door No.3, New Door No.49,



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Utchimahali Amman Kovil 1st Street,
Keelappuliyur,
Tankasi Taluk, Tirunelveli.

5. R.PANKAJAM,
W/o. Late Ramasamy Reddier,
No.440A, Neelpadai,
Radhanallur Railway Quarters,
Athipuliyur, Keelvelur Taluk,
Nagapatinam.

6. P.PAKKRISAMY,
No.129-5, 71-5,
Muthazhagi Amman Kovil Street,
Shencottai- 627 809.

7. ASSET RECONSTRUCTION COMPANY
INDIA LTD (ARCIL)
The Ruby, 10th Floor,
Senapati Bapat Marg,
Dadar (West), Mumbai – 400 028.

8. THE SUB-REGISTRAR
The Sub-Registrar Office, Alandur
12 Ist Main Road,
Nanganallur Co-Operative Society Lt,
Nanganallur, Chennai-600061.

...Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent against the Order of this Court in WP (MD) No. 17123 of 2024 dated 24.10.2024

For Appellant : Mr. Murali Kumaran, Senior Counsel,
Assisted by A. Ashwin Kumar, Advocate.

For Respondents: M/s. R. Suresh Kumar, Addl. Govt Pleader
for R1, R2 and R8.
Mr.A.K.Sriram, Senior Counsel



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for M/s.S.Vidyasagar for R3

Mr.Isaac Mohanlal, Senior Counsel

for M/s.S.Kumar for R4 -

Mr. Srinath Sridevan, Senior Counsel

for M/s.Keerthikiran Murali for R5

Mr. Manishankar, Senior Counsel

For M/s.Sarvabhauman Associates for R7

for R5- No appearance.

JUDGEMENT

(Judgement of the Court was delivered by J.NISHA BANU, J.)

This Writ Appeal is directed against the Order made in W.P (MD) No. 17123 of 2024 dated 24.10.2024.

2. The Appellant filed Writ Petition in No. 17123 of 2024, challenging the registration of the sale deed dated 31.08.2012 registered as document No. 853 of 2013 on the file of the 8th Respondent, contending that his property situated in Alandur village, Chennai, outside the jurisdiction of the Sub- Registrar, Thenkasi, has been registered, by including another property situated in Thenkasi district, and the same is against the provisions of Section 28 of the Registration Act, 1908.



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3. The said Writ Petition was dismissed by Order dated 24.10.2024, holding that section 28 of the Registration Act, 1908 is not a bar for such registration and only the documents registering the properties situated outside the State of Tamil Nadu in contravention of sub clause (a) would deem to be void, as per sub-clause (b) of section 28 and that the sale deed which was sought to be cancelled in the Writ Petition being the subject matter of a direction in W.P. No. 7370 of 2023 dated 10.03.2023, wherein the direction given to the authorities was set aside by the Division Bench in WA. No. 3348 of 2023 dated 25.03.2024, as a matter of right, the said document challenged in Writ Petition, cannot be annulled.

4. The learned Senior Counsel appearing for the Appellant submitted that the Order passed by the Writ Court is against the intent, scope and object of section 28 of the Registration Act, 1908. The Learned Senior Counsel stated that the presentation of the document for registration in the Office of the Sub-Registrar is restricted/confined only to the properties situated within the sub-district and the only exception can be that, if some portion of the property to which the document relates to, is situated in Tamil Nadu, then the whole of the property can be registered in Tamil Nadu, but that too only by the Sub-Registrar, within whose sub-registration district, the remaining part of the property falls. Since, the property in Alandur, shown in schedule B to the sale deed impugned in the Writ Petition, is completely outside the sub-registration district of the 8th Respondent, the same is null and void



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as per sub-clause (b) of section 28 of the Registration Act, 1908. Referring to the Circular dated 29.06.2022 in No. 37248/C1/2021 of the 2nd Respondent, he contended that inclusion of a small item of property, which neither the vendor intended to sell nor the purchaser intended to buy, but done with an ulterior motive to grab a property, by getting registration of a sale deed in another district, with a sole aim of registering the bogus sale deed in collusion of the registering officer, amounts to fraud.

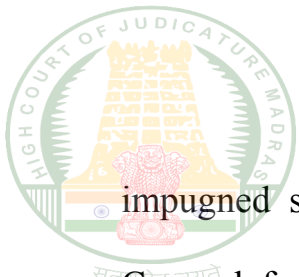
5. The learned Senior Counsel for the appellant placed reliance on the following judgments:

1. Harendar Lal Roy Chowdhuri v. Hari Desi Debi (ILR 41 Cal. 972)

2. Gokarakonda Narasima Rao v. Gokarakonda Papanna (1920 11 LW 394)

The learned Senior counsel argued that the properties situated outside the sub-registration district cannot be registered by the Sub-Registrar. Reliance was also placed on the decision of the Hon'ble Supreme Court in the case of ***Assets Reconstruction Company (India) Limited vs. S.P. Velayudham & others reported in (2022) 8 SCC 210.***

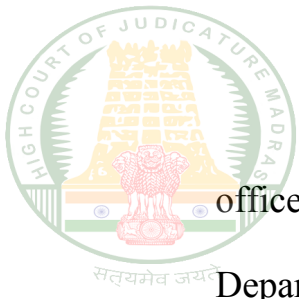
6. The learned Senior Counsel, Mr. Manisankar, appearing for the 5th Respondent, contended that the 5th Respondent is the Assignee of the loan for which the subject property at Alandur was given as security by the Appellant and that the



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impugned sale deed in the Writ Petition is an act of fraud. The learned Senior Counsel further pointed out that the 5th Respondent executed the impugned sale deed, conveying the land at Alandur, Chennai to the 3rd Respondent claiming herself to be the wife of one, Ramasamy Reddiar , son of one, Devaraj Reddiar. But however, she herself admitted before the police and revenue authorities that she is not the wife of Ramasamy Reddiar but her husband's name is Ramasamy Pathar. Also further pointing out to the deed of cancellation dated 23.012.2024 registered as document No. 5622/2022 on the file of SRO, Alandur, wherein, the adjacent property situated in S.No. 16/7, measuring 18 cents, which was conveyed by the 5th respondent to one, M/s. Polycab India Limited by a Deed of Sale dated 02.05.2011, registered as Document No. 1747/2011, on the file of the SRO, Alandur, was cancelled by the 5th Respondent, accepting and stating that;

1. The 5th respondent's brother, the 6th respondent had instigated the 5th respondent to execute various documents of the properties owned by 3rd parties and that after realising the mistake she had given the statement to the police that the actual name of her husband is Ramasamy Pathar, S/o. Subbukutty Pathar and that she had not inherited the said properties.
2. The enjoyment certificate dated 20.06.1969 purportedly issued by an office titled "Udhavi Annaiyar Aluvalagam" at Thiruvanamalai (Office of the Assistant Commissioner at Thiruvanamalai) and all other revenue records as well as encumbrance certificates, that were produced before the Tahsildar,



office of the Revenue Department, as well as before the Registration Department are forged and fabricated documents.

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Therefore, the document executed by way of impersonation and fraud with an intent to grab an immovable property, in violation of the provisions of the Registration Act is liable to be set aside.

7. Mr. Srinath Sridevan, learned Senior Counsel, appearing for the 5th Respondent contended that;

(a) The 5th respondent, Pankajam, did not possess any property relating to the impugned Sale Deed.

(b) Since she could not read and understand the contents of the document, at the instance of Mr. Sakthivel, the CEO of the 3rd Respondent and her brother, Mr. Pakkirisamy, she has affixed her thumb impression on many documents, all of them before the Sub-Registrar, Alandur.

(c) Similarly, she has affixed her thumb impression in the document which was the subject matter of registration in Document No. 853/2013 on the file of the 8th Respondent, having been misled by her brother, Mr. Pakkirisamy, Mr. Sakthivel and his associates, that it belongs to her.

(d) Mr. Sakthivel and his associates have created forged death certificate, legal Heir certificate and other revenue records in furtherance of the illegal act of cheating



and grabbing the land.

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(e) The 5th respondent is an illiterate woman hailing from Pathar community and has affixed her thumb impressions on various documents presented by her brother, Mr. Sakthivel and his associates, believing their representations to be true.

The learned Senior Counsel, Mr. Srinath Sridevan, cited the following judgements:-

1. Lal Ray v. Haridasi Debi (AIR 1914 PC 67)
2. Narasimha Rao v Papunna, (1920 11 LW 394)
3. Biswanth Prashad v Chandra Narayana Chowdhuri (AIR 1921 PC 8)
4. Collector of Gorakhpur v Ram Sundar (AIR 1934 PC 157)
5. Raja Inuganti v. Raja Sobhanadri (AIR 1963 PC 91)

The learned Senior counsel vehemently contended that the act of registering a property situated outside the jurisdiction of the Sub-Registrar by including a small property amounts to fraud.

8. Mr.Isaac Mohanlal, the learned Senior Counsel appearing for the 4th Respondent submitted that, no cancellation of a document can be done by exercise of powers under Article 226 of the Constitution of India as the only recourse available for the affected person is to file a civil suit. The learned Senior Counsel further contended that the Circular dated 29.06.2022 in No. 37248/C1/2021 relied upon by



the appellant is subsequent to the execution of the sale deed and therefore, the same will not affect the registration of the sale deed challenged in the Writ Petition. That the 6th Respondent, who is a party to the impugned sale deed having died, necessarily his legal heirs are to be impleaded, since, in the event, the impugned sale deed is cancelled / set aside, the purchaser has to recover the sale consideration for which necessarily the legal heirs of the 6th respondent are necessary parties.

9. Mr. Sriram, learned Senior Counsel appearing for the 3rd Respondent reiterated the necessity for impleading the legal heirs of the 6th Respondent and further contended that the present proceedings are re-litigation, since, the appellant had already approached this Court for cancellation of the very same sale deed in WP. No. 7370/2023 and the Order passed therein, assailed in the WA. No. 3348 of 2023 dated 25.03.2024, in which by Order dated 25.03.2024, the Division Bench has set aside the Order passed in WP. No. 7370 of 2023.

10. Mr. Sriram, learned Senior Counsel also contended that the property belonging to the Appellant in S. No. 16/18A and the property of the 3rd respondent are completely different properties and that the Order passed by this Court dated 06.06.2024 substantiates the same. The learned Senior Counsel further contended that, if two or more immovable properties are sold in a single sale deed and the whole or some portion of the property to which such document relates, is situated in



more than one district, then the document can be registered in either of the places where some portion of the property is situated. In this regard, he placed reliance in the Judgment of the Division Bench of this Court in WP. No. 14480 of 2024 dated 05.06.2024 and the Judgment of the Single Judge of the Allahabad High Court reported in **2018 SCC OnLine All 1030 [Ran Awadh Vs. DDC & Others]**.

11. Mr. Sriram, learned Senior Counsel also reiterated the contention that Circular dated 29.06.2022 in No. 37248/C1/2021 of the 2nd respondent cannot be applied to the subject sale deed registered on 17.05.2013, in a retrospective manner and furthered his arguments, by placing his reliance on the judgments of the Hon'ble Supreme Court in the cases of **Sonia v. Oriental Insurance Co. Ltd.**, reported in **(2007) 10 SCC 627** & **N.T. Devin Katti v. Karnataka Public Service Commission** reported in **(1990) 3 SCC 157** to urge that Government Orders cannot have retrospective effect. The learned Senior Counsel placing reliance in the judgment of the Hon'ble Supreme Court in the case of **Satya Pal Anand v. State of M.P.**, reported in **(2016) 10 SCC 767** contended that disputed questions of fact cannot be raised in Writ Jurisdiction and once a document is registered, any person who wants to claim that the said document is registered fraudulently, then such fact must be pleaded and proved before a Civil Court. He further stated that the reliance placed by the Appellant in judgement of the Hon'ble Supreme Court in the case of **Assets Reconstruction Company (India) Limited**, is erroneous as in paragraphs 54, 57 &



58 of it, is held that a declaration that a document is null and void, is exclusively within the domain of the Civil Court.

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12. Mr. Sriram, learned Senior counsel further contended that there is no mala fide in registering the subject sale deed on the file of the SRO, Thenkasi, as the 3rd Respondent Society, which is the purchaser of the property is registered in Thenkasi. The 'A' schedule mention property owned by the 4th respondent, (who is the 1st vendor in the subject sale deed) is situated in Thenkasi and the 3rd vendor, the 6th respondent, who gave no objection for selling the B schedule property is also from Thenkasi.

13. In response to the contentions of the learned Senior Counsels, Mr. Sriram and Mr. Isaac Mohan Lal, appearing for the 3rd and 4th respondents, the learned Senior Counsel Mr. Manishankar appearing for the 7th respondent contended that without impleading either the Appellant or the 7th respondent, i.e., the owner of the property or the Assets Reconstruction Company in whose possession the subject property is vested, by obtaining an order of police protection in WP. No. 13611/2024, the 3rd respondent attempted to trespass into the property, which Order was interfered by the Supreme Court by way of two interim Orders, one in SLP Diary No. 5543/2025 and another by an Order passed on 19.13.2025 in SLP (Crl) Diary No. 30893/2024, wherein the Supreme Court stayed the Order of the Madras High



Court granting Police protection and therefore it is evident that the 3rd respondent was trying to get illegal possession over the property in S. No. 16/18A, belonging to the Appellant, the possession of which is vested with the 7th respondent.

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14. Mr. Srinath Sridevan, learned Senior Counsel for the 5th Respondent pointed out that since there is no parent document or any other document conferring title to the 5th respondent of the subject property, various agreements of sale and settlement deeds were executed and cancelled by his client, at the instigation and instance of Mr. Shakthivel (CEO of the 3rd Respondent) & his associates and her Brother, Mr. Pakkirisamy.

15. The Senior Counsel appearing for the Appellant pointing out the RTI Reply dated 13.01.2024 contended that there is no such office as Assistant Commissioner, Thiruvanamalai and that the so called “enjoyment certificate” dated 26.09.1969 is a forged one and only based on the forged document without any other document, in collusion with the revenue authorities, a Patta was obtained in the name of the 5th respondent claiming to be the wife and only legal heir of one, D. Ramasamy Reddiar s/o., Devaraj Reddiar. The so called enjoyment certificate itself limits the alleged enjoyment only to the land in S. No. 16/7 to an extent 18



cents and there is no other document, even forged relating to S. No. 16/18 or 16/18A.

As far as the 18 cents which the forged enjoyment certificate states that, was in possession of the 5th respondent relating to S.No. 16/7 was the subject matter of sale dated 02.05.2011 executed by the 5th respondent in favour of one, M/s. Polycab India Limited, which sale was accepted to be a result of forgery and impersonation and was cancelled by a registered deed of cancellation dated 23.12.2024 registered as document 5622 of 2024 on the file of the SRO, Alandur, wherein, the 5th respondent not only affirmed that she is not the wife of Ramasamy Reddiar and all the documents are forged ones, but also, affirmed as to who are the original owners of the said property. Similar to the purchase of the property by the Appellant in S.No. 16/18A in the year 1989, the properties in S.No. 16/7 were also purchased by the original owners in the year 1989, 1990, 1997, etc. As fraud vitiates everything, all actions in pursuant to the act of the fraud and forgery has to be undone.

16. The Senior Counsel for the appellant contended that there is no necessity to implead the Legal Heirs of the 6th respondent as he is neither the contesting respondent nor anywhere he had claimed himself to be the owner of the subject property. Rather, he is only the confirming party which is clear from the impugned sale deed, wherein it is specifically averred that the 5th respondent is the absolute owner and is in exclusive possession of the property conveyed in the 'B' Schedule Property to the impugned sale deed and the 6th respondent does not have any right



whatsoever over the subject property. Placing reliance in the judgment reported in **2010 (6) CTC 1** in the case of the *State of Tamil Nadu, Rep. by Housing and Urban Development*, he contended that in view of section 141 of the C.P.C. which makes the C.P.C. inapplicable to proceedings under Article 226 which is meant for effective and efficacious remedy, unwarranted exercises without any legal consequence cannot be pressed into application.

17. The Senior Counsel appearing for the appellant further contended that the principles laid down by the Full Bench of this Hon'ble court in case of the *Latif Estate* reported in **2011 2 CTC 1** is equally applicable to forged documents as there cannot be a valid transfer of property under section 54 of the Transfer of Property Act by a person who does not have any right, title or interest in the property and since such acts are opposed to public policy, the illegal documents created with an intent to grab the immovable property cannot be allowed to be reflected in the records of the Registration Department as the purpose of registration of a document is to give information to the public regarding the legal rights and obligations arising of affecting a particular property and to perpetuate documents which may afterwards be of legal importance and also to prevent fraud. He also pointed out that an FIR has been registered in the said regard in for offences under sections 419, 465, 468, 471, 420 & 120B of IPC as against the respondents 3, 5 and Mr. Shakthivel and the investigation is in the verge of completion and in the meantime based on the illegal,



forged sale deed further encumbrances are attempted to be created. The real owner of the property cannot be pushed to the recourse of the Civil Court to set aside a forged document created over a property by a person who has got no right over the property and registered by an authority which has got no jurisdiction, as reiterated by Their Lordships of the Supreme Court in the case of *Thota Ganga Laxmi and another Vs. Government of Andhra Pradesh and others* reported in *2010 15 SCC 207*.

18. The learned Senior counsel for the appellant pointed out that the Writ Petition No. 7370 of 2023 was filed only for the limited purpose of disposing of the representation made by the appellant herein under the newly amended section 77A of the Registration Act and the said Writ Petition was disposed of without going into the merits, by directing the authorities to consider the representation made by the appellant on merits. The Writ Appeal taken against the said Order was allowed only on the ground that section 77A is only prospective and therefore the same will not be applicable to the documents executed prior to the insertion of section 77A to the Registration Act by the State of Tamil Nadu and in the view of the same no useful purpose would be served by directing the authority who does not have the jurisdiction to consider the representation. Therefore, the present proceedings does not amount to re-litigation.

19, It was contended that the Supreme Court in the case of *Assets*



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Reconstruction Company (India) Limited reported (2022) 8 SCC 210, had set aside the fraudulent execution of the document by another fraudster, pertaining to the very same property, which by implication affirms the ownership of the appellant over the subject property. That S. No. 16/18 was sub-divided even before 1989 and there is no survey number as 16/18 without any sub-division. He further pointed out that what has been challenged in the Writ Petition is the power of the registering Authority to register a document relating to a property situated outside the jurisdiction the registering Authority, which is prohibited under section 28(a) of the Registration Act and any such registration done in violation of section 28(a) would be null and void as per section 28(b) of the Registration Act.

20. We have given our careful consideration to the submissions made by the appellant and the respondents both orally and as well as by way of written submissions.

21. Though the case, after notice and appearance of the parties, was posted under the caption for passing Orders on 21.04.2025, the contesting respondent, i.e., the 3rd respondent chose not to file any counter but proceeded with Oral arguments supported by the submissions made by the 4th respondent. Even though the 3rd respondent chose not to file any counter, submitted its written submissions in continuation of the oral arguments. Neither in the oral arguments nor in the written



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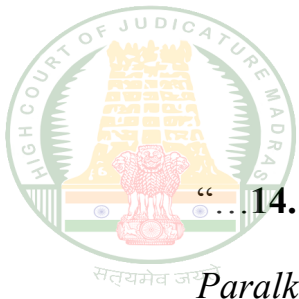
submissions the 3rd respondent chose to deny any of the allegations which are of serious in nature, made by the appellant, the 7th respondent and the 5th respondent.

Therefore, since the allegations made by the appellant and the 5th and 7th respondent are uncontroverted, the same stands to be proved. Hence, this court has got no hesitation to hold that the Sale Deed registered as Document No. 853 of 2013, on the files of the 8th respondent is a fraudulent one.

22. This court cannot be a mute spectator to an act of gross violation of the statutory powers and commission of fraud as held by the Supreme Court in the case of **Uddar Gagan Properties Ltd. [(2016) 11 SCC 378]**-

“...22. While it is true that a belated petition cannot be entertained under Article 226 of the Constitution, it is well settled that this is only a rule of practice based on sound and proper exercise of discretion and not a jurisdictional bar. Exercise of discretion to quash an illegal action based on fraud or abuse of law even belatedly may not be liable to be interfered with under Article 136 of the Constitution....”

Technicalities cannot be allowed to perpetuate the fraud or advantage the deceiver. This Court and the Supreme Court had consistently emphasised the necessity for exercise of the powers of the court, to prevent the benefit/advantage to the deceiver. In the case of the **National Insurance Company Ltd. [2024 SCC OnLine SC 4086]**, the Supreme Court held that;



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“...14. Of much more recent vintage, is the decision in *Bhaurao Dagdu*

Paralkar v. State of Maharashtra, (2005) 7 SCC 605, wherein it was explained as under:

‘9. By “fraud” is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from ill will towards the other is immaterial. The expression “fraud” involves two elements, deceit and injury to the person deceived. Injury is something other than economic loss, that is, deprivation of property, whether movable or immovable or of money and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver, will almost always cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied. [See *Vimla (Dr.) v. Delhi Admn.* [1963 Supp (2) SCR 585 : AIR 1963 SC 1572] and *Indian Bank v. Satyam Fibres (India) (P) Ltd.* [(1996) 5 SCC 550]]

10. A “fraud” is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. (See *S.P. Chengalvaraya Naidu v. Jagannath* [(1994) 1 SCC 1].)

11. “Fraud” as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letters or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letters. It is also well settled that misrepresentation itself amounts to fraud. Indeed,



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innocent misrepresentation may also give reason to claim relief against fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues therefrom although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. (See Ram Chandra Singh v. Savitri Devi [(2003) 8 SCC 319].)

12. In Shrisht Dhawan v. Shaw Bros. [(1992) 1 SCC 534], it was observed as follows : (SCC p. 553, para 20) “Fraud” and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct. Michael Levi likens a fraudster to Milton's sorcerer, Camus, who exulted in his ability to, “wing me into the easy-hearted man and trap him into snares”. It has been defined as an act of trickery or deceit. In Webster's Third New International Dictionary “fraud” in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Black's Law Dictionary, “fraud” is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by



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words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. In Concise Oxford Dictionary, it has been defined as criminal deception, use of false representation to gain unjust advantage; dishonest artifice or trick. According to Halsbury's Laws of England, a representation is deemed to have been false, and therefore a misrepresentation, if it was at the material date false in substance and in fact. Section 17 of the Contract Act, 1872 defines "fraud" as an act committed by a party to a contract with intent to deceive another. From the dictionary meaning or even otherwise fraud arises out of the deliberate active role of the representator about a fact, which he knows to be untrue yet he succeeds in misleading the representee by making him believe it to be true. The representation to become fraudulent must be of fact with knowledge that it was false. In a leading English case i.e. Derry v. Peek [[1886-90] All ER 1 : [L.R.] 14 App. Cas. 337 : 61 LT 265 (HL)] what constitutes "fraud" was described thus : (All ER p. 22 B-C)

"Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false."

But "fraud" in public law is not the same as "fraud" in private law. Nor can the ingredients, which establish "fraud" in commercial transaction, be of assistance in determining fraud in administrative law. It has been aptly observed by Lord Bridge in Khawaja v. Secy. of State for Home Deptt. [[1983] 1 All ER 765 : [1984] A.C. 74 : [1982] 1 WLR 948 (HL)] that it is dangerous to introduce maxims of common law as to the effect of fraud while determining fraud in relation of statutory law. "Fraud" in relation to the statute must be a colourable transaction to evade the



provisions of a statute.

“If a statute has been passed for some one particular purpose, a court of law will not countenance any attempt which may be made to extend the operation of the Act to something else which is quite foreign to its object and beyond its scope.” Present day concept of fraud on statute has veered round abuse of power or mala fide exercise of power. It may arise due to overstepping the limits of power or defeating the provision of statute by adopting subterfuge or the power may be exercised for extraneous or irrelevant considerations. The colour of fraud in public law or administrative law, as it is developing, is assuming different shades. It arises from a deception committed by disclosure of incorrect facts knowingly and deliberately to invoke exercise of power and procure an order from an authority or tribunal. It must result in exercise of jurisdiction which otherwise would not have been exercised. That is misrepresentation must be in relation to the conditions provided in a section on existence or nonexistence of which power can be exercised. But non-disclosure of a fact not required by a statute to be disclosed may not amount to fraud. Even in commercial transactions non-disclosure of every fact does not vitiate the agreement. ‘In a contract every person must look for himself and ensure that he acquires the information necessary to avoid bad bargain.’ In public law the duty is not to deceive.” (See Shrisht Dhawan v. Shaw Bros. [(1992) 1 SCC 534], SCC p. 554, para 20.)

13. This aspect of the matter has been considered recently by this Court in Roshan Deen v. Preeti Lal [(2002) 1 SCC 100 : 2002 SCC (L&S) 97], Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education [(2003) 8 SCC 311], Ram Chandra Singh case [(2003) 8 SCC 319] and Ashok Leyland Ltd. v. State of T.N. [(2004) 3 SCC 1]



14. *Suppression of a material document would also amount to a fraud on the court. (See Gowrishankar v. Joshi Amba Shankar Family Trust [(1996) 3 SCC 310] and S.P. Chengalvaraya Naidu case [(1994) 1 SCC 1].)*

15. *“Fraud” is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. Although negligence is not fraud but it can be evidence on fraud; as observed in Ram Preeti Yadav case [(2003) 8 SCC 311].*

16. *In Lazarus Estates Ltd. v. Beasley [[1956] 1 Q.B. 702 : [1956] 1 All ER 341 : [1956] 2 WLR 502 (CA)] Lord Denning observed at QB pp. 712 and 713 : (All ER p. 345 C)*

“No judgment of a court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything.”

In the same judgment Lord Parker, L.J. observed that fraud vitiates all transactions known to the law of however high a degree of solemnity. (p. 722) These aspects were recently highlighted in State of A.P. v. T. Suryachandra Rao [(2005) 6 SCC 149 : (2005) 5 Scale 621].’

15. An interesting passage on fraud can be found in *Reddaway (Frank) & Co. Ltd. v. George Banham & Co. Ltd.*, [1896] A.C. 199, where the House of Lords stated:

‘But fraud is infinite in variety; sometimes it is audacious and unblushing; sometimes it pays a sort of homage to virtue, and then it is modest and retiring; it would be honesty itself if it could only afford it. But fraud is fraud all the same; and it is the fraud, not the manner of it, which calls for the interposition of the Court.’ ...”



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Therefore, the persons who have committed impersonation and fraud cannot be allowed to wriggle out of the system of justice by raising technicalities.

23. The Supreme Court with great emphasis, in the Judgment of ***New Okhla Industrial Development Authority [(2022) 5 SCC 591]***, reiterated the observations made in the case of ***S.P. Chengalvaraya Naidu [(1994) 1 SCC 1]***, holding that the principle of the finality of litigation cannot be pressed to an extent of absurdity that it becomes an engine of fraud in the hands of dishonest litigants.

“...23. Fraud vitiates all actions as laid down by this Court in S.P. Chengalvaraya Naidu v. Jagannath [S.P. Chengalvaraya Naidu v. Jagannath, (1994) 1 SCC 1] wherein it was held as under : (SCC p. 5, para 5)

“5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that ‘there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence’. The principle of “finality of litigation” cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to



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say that more often than not, process of the court is being abused. Property-grabbers, tax evaders, bank loan-dodgers and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.” ... ”

24. In view of the admitted facts from the averments contained in the fraudulent sale deed dated 31.08.2012 registered as document No. 853 of 2013 wherein, it is stated that;

“...WHEREAS the Second Vendor represented that she is the absolute owner in exclusive possession and having right to sell and convey the property more fully described in the Schedule-B hereunder and that the same is free from any encumbrance whatsoever subject to the aforesaid and WHEREAS the Second Vendor has offered to sell the said property described in this sale is absolutely free of encumbrances in view of the above cancellation of deeds as stated hereinabove as agreed by the parties hereto.

AND WHEREAS the Third Vendor herein is the brother of the Second Vendor herein and he does not have any right whatsoever over the Schedule-B property. However, for the purpose of perfecting the title of the Purchaser, he has been added as one of the Vendors herein in the sale of the said property.”

25. The 4th respondent being not the owner of the subject property, we have



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no hesitation to hold, that in the view of section 141 of the C.P.C. which excludes the applicability of C.P.C. to Article 226 of the Constitution of India, there is no necessity to implead the legal heirs of the 5th respondent, as was held by this court in the case of ***State of Tamil Nadu, Rep. by Housing and Urban Development*** –

“...12. In terms of the Explanation to Section 141, there is total exclusion of the proceedings under Article 226 of the Constitution, which is an extraordinary power conferred on the High Courts. This very issue came up for consideration before the Hon'ble Supreme Court in Puran Singh and others v. State of Punjab and others, 1996 (2) SCC 205: AIR 1996 SC 1092 and their Lordships of the Hon'ble Supreme Court held thus:

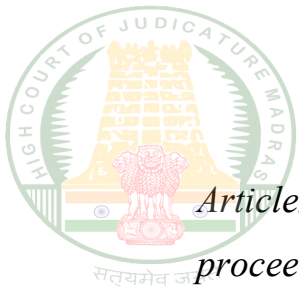
“5. The question with which we are concerned is as to whether the aforesaid provisions made under Order 22 of the Code are applicable to proceedings under Articles 226 and 227 of the Constitution. Prior to the introduction of an explanation by Civil Procedure Code (Amendment) Act, 1976, Section 141 of the Code was as follows:

“141. Miscellaneous proceedings.— The procedure provided in this Code in regard to Suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of Civil jurisdiction.”

The Explanation which was added by the aforesaid Amending Act said:

Explanation.— In this Section, the expression ‘proceedings’ includes proceedings under Order 9, but does not include any proceeding under Article 226 of the Constitution.”

There was controversy between different Courts as to whether the different provisions of the Code shall be applicable even to Writ proceedings under



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Articles 226 and 227 of the Constitution. Some High Courts held that Writ proceedings before the High Court shall be deemed to be proceedings “in any Court of Civil jurisdiction” within the meaning of Section 141 of the Code. (*Ibrahimbhai Karimbhai v. State of Gujarat*, AIR 1968 Guj. 202; *Asstt. Distt. Panchayat Officer v. Jai Narain Pradhan*, AIR 1967 All. 334; *Krishnalal Sdhu v. State of W.B.*, AIR 1967 Cal. 275; *Sona Ram Ranga Ram v. Central Government*, AIR 1963 Punj. 510; *Annam Adinarayana v. State of A.P.*, AIR 1958 AP 16). However, in another set of cases, it was held that Writ proceeding being a proceeding of a special nature and not one being in a Court of Civil jurisdiction Section 141 of the Code was not applicable. (*Bhagwan Singh v. Addl. Director of Consolidation*, AIR 1968 Punj. 360; *Chandmal Naurat Mal v. State of Rajasthan*, AIR 1968 Raj. 20; *Khurjawala Buckles Mfg., Co. v. CST*, AIR 1965 All. 517; *Ramachand Nihalchand Advani v. Anandlal Bapalal Kothati*, AIR 1962 Guj. 21; *Bharat Board Mills Ltd. v. R.P.F. Commr.*, AIR 1957 Cal. 702).

Even before the introduction of the explanation to Section 141 of the Code, this Court had occasion to examine the scope of the said Section in the case of *Babubhai Muljibhai Patel v. Nandlal Khodidas Barot*, AIR 1974 SC 2105 : 1975 (2) SCR 71. It was said:

“It is not necessary for this case to express an opinion on the point as to whether the various provisions of the Code of Civil Procedure apply to Petitions under Article 226 of the Constitution. Section 141 of the Code, to which reference has been made, makes it clear that the provisions of the Code in regard to Suits shall be followed in all proceedings in any Court of Civil jurisdiction as far as it can be made applicable. The words ‘as far as it can be made applicable’ make it clear that, in applying the various provisions of the Code to proceedings other than those of a Suit, the Court

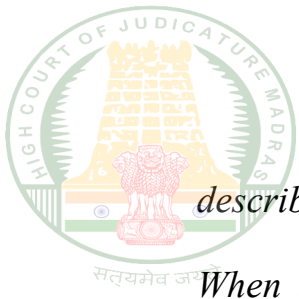


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must take into account the nature of those proceedings and the relief sought. The object of Article 226 is to provide a quick and inexpensive remedy to aggrieved parties. Power has consequently been vested in the High Courts to issue to any person or authority, including in appropriate cases any Government, within the jurisdiction of the High Court, orders or Writs, including Writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo warranto and Certiorari. It is plain that if the procedure of a Suit had also to be adhered to in the case of Writ Petitions, the entire purpose of having a quick and inexpensive remedy would be defeated. A Writ Petition under Article 226, it needs to be emphasized, is essentially different from a Suit and it would be incorrect to assimilate and incorporate the procedure of a Suit into the proceedings of a Petition under Article 226.”

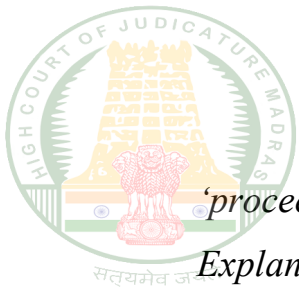
It can be said that in the judgment aforesaid, this Court expressed the view that merely on basis of Section 141 of the Code it was not necessary to adhere to the procedure of a Suit in Writ Petitions, because in many cases the sole object of Writ jurisdiction to provide quick and inexpensive remedy to the person who invokes such jurisdiction is likely to be defeated. A Constitution Bench of this Court in the case of State of U.P. v. Dr. Vijay Anand Maharaj, AIR 1963 SC 946 said as follows:

“It is, therefore, clear from the nature of the power conferred under Article 226 of the Constitution and the decisions on the subject that the High Court in exercise of its power under Article 226 of the Constitution exercises original jurisdiction, though the said jurisdiction shall not be confused with the ordinary Civil jurisdiction of the High Court. This jurisdiction, though original in character as contrasted with its Appellate and Revisional jurisdictions, is exercisable throughout the territories in relation to which it exercises jurisdiction and may, for convenience, be



described as extraordinary original jurisdiction.”

When the High Court exercises extraordinary jurisdiction under Article 226 of the Constitution, it aims at securing a very speedy and efficacious remedy to a person, whose legal or Constitutional right has been infringed. If all the elaborate and technical rules laid down in the Code are to be applied to Writ proceedings the very object and purpose is likely to be defeated. According to us, in view of the conflicting opinions expressed by the different Courts, Parliament by the aforesaid amending Act introduced the explanation saying that in Section 141 of the Code the expression ‘proceedings’ does not include “any proceedings under Article 226 of the Constitution” and statutorily recognized the views expressed by some of the Courts that Writ proceedings under Article 226 of the Constitution shall not be deemed to be proceedings within the meaning of Section 141 of the Code. After the introduction of the explanation to Section 141 of the Code, it can be said that when Section 141 provides that the procedure prescribed in the Code in regard to Suits shall be followed, as far as it can be made applicable “in all proceedings in any Court of Civil jurisdiction” it shall not include a proceeding under Article 226 of the Constitution. In this background, according to us, it cannot be held that the provisions contained in Order 22 of the Code are applicable per se to Writ proceedings. If even before the introduction of the Explanation to Section 141, this Court in the case Babubhai v. Nandlal, AIR 1974 SC 2105 had said that (SCC Headnote p. 707) the words “as far as it can be made applicable” occurring in Section 141 of the Code made it clear that, in applying the various provisions of the Code to the proceedings other than those of a Suit, the Court has to take into consideration the nature of those proceedings and the reliefs sought for after introduction of the Explanation the Writ proceedings have to be excluded from the expression



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‘proceedings’ occurring in Section 141 of the Code. If because of the Explanation, proceeding under Article 226 of the Constitution has been excluded, there is no question of making applicable the procedure of Code “as far as it can be made applicable” to such proceeding. The procedures prescribed in respect of Suit in the Code if are made applicable to the Writ proceedings then in many cases it may frustrate the exercise of extraordinary powers by the High Court under Articles 226 and 227 of the Constitution.... ”

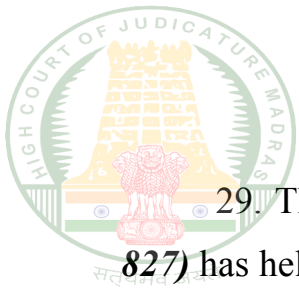
26. The proceedings in WP. No. 7370/2023 and the Writ Appeal connected thereto relates to the exercise of the powers of the registering authority to cancel a document under section 77A of the Registration Act and not the powers of the High Court under Article 226 of Constitution of India and therefore the present proceedings cannot be held to be a re-litigation as held by the Supreme Court in cases of the “New Okhla Industrial Development Authority” and “S.P. Chengalvaraya Naidu” (referred supra) as it would amount to pushing it to a point of absurdity to benefit the deceiver.

27. The Order passed in WP. No. 13611 of 2024, which was relied upon by the Senior Counsel appearing for the 3rd respondent pertaining to an observation with regard to different Survey Numbers, as the same is stayed by the Supreme Court, it would be inappropriate for this Court to consider the said observation for the purpose of deciding the issues in the present Appeal.



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28. The Judgment cited by the 3rd respondent, passed by this Court in WP. No. 14480 of 2024 dated 05.06.2024 was on a complete different set of facts and the said Judgment relates to a document, which was admittedly executed by the same parties and not by different parties, as in the present case. The said Judgement also did not have the benefit of Judgments relied upon and cited by the Appellant and the 5th respondent. Moreover, it is a case where the deed which is to be registered contains by default, various properties which cannot be separated and the parties are also one and the same. The said Judgment taking note of the fact that the Asset Reconstruction Company merely stepped into the shoes of the lending financial intuition, refused to assail the document. The 2nd Judgment cited by Mr. Sriram, the learned Senior Counsel for the 5th Respondent of the Single Judge of the Allahabad High Court reported 2018 SCC OnLine All 1030 in fact, supports the case of the Appellant, as admittedly the present document was registered outside the jurisdiction where the property is situated under suspicious circumstances. To a specific query put by this Court, as to whether the 1st vendor and the 2nd vendor are related, it was fairly conceded that they are not and they are strangers to each other. Therefore in the absence of any reasoning, least attempt to reason, for joining two unconnected persons and two different properties in one sale deed and have the larger extent of property registered in the registration office where the smaller extent of property is situated is definitely suspicious.



29. The Privy Council in the case of ***Harendra Lal Roy Chowdhuri*** (pg. 827) has held that;

“...Such an entry intentionally made use of by the parties for the purpose of obtaining registration in a district where no part of the property actually charged and intended to be charged in fact exists, is a fraud on the Regis-tration law, and no registration obtained by means thereof is valid....”

30. In the case of ***Gokarakonda Narasimha Rao***, (pg.396-397) this Court has held that;

.....On that finding we must hold following the case in *Rama Naik v. Nagamuthu Nachiar*, that the present case falls within the principal enunciated by Privy Council in *Harendra Lal Roy Chowdhuri v. Hari Dasi Debi*. The action of the parties in this case was a fraud on the registration law. The fact that there was land corresponding to the one cent included in the deed, belonging to the vendor is not sufficient to take it out of that principle as the finding is that it was not intended that the deed should affect the land in any way....”

Again the Privy Council in the case of *Collector of Gorakhpur* held that transactions of including smaller properties with the larger property and having it registered in the office where the smaller property is situated is a device to evade the Registration Act. – (pg. 491-492)

“The deed is a registrable instrument under section 17 of the Indian Registration Act, 1908. Section 28 of that Act requires that every registrable document “shall be presented for registration in the office of a



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sub-registrar within whose sub-district the whole or some portion of the property to which such document relates is situate,” and section 49 enacts that no registrable instrument shall affect any immovable property comprised therein unless it has been registered in accordance with the provisions of the Act. The sale deed was registered with the sub-registrar of Gorakhpur. The only justification for registration with him was that there is included in the deed, as a separate item, of transfer, an undivided interest in a small sitting room situated in Gorakhpur, later to be described. The question is whether in all the circumstances of the case the deed related to that property within the meaning of the statute. If it did not, the registration was inoperative.

The facts raising the question are clear enough. The inferences to be drawn from them are not so clear. The deed purports to transfer as one parcel four villages of the Majhauri estate, and, as a separate item of property, a one-third share in a sitting-room in a garden appearing to the Majhauri kothi in Mohalla Dandpur, Gorakhpur. As compared with the value of the four villages this property is insignificant, almost derisory....

The word “fictitious” used in Harendra Lal Roy Chowdhuri v. Haridasi Debi [(1914) I.L.R., 41 Cal., 972 (1914).] , is not confined to non-existing properties. It is satisfied if the deed does not “relate” to a specified property for any effective purpose of enjoyment or use.

(pg. 495-496) ...In their Lordships' opinion, all the facts of the case, if not stronger, are at least as strong as those in either Harendra Lal's case [(1914) I.L.R., 41 Cal., 972 (1914).] , or in Biswanath Prasad v. Chandra Narayan Chowdhury [(1921) I.L.R., 48 Cal., 509.], and, paraphrasing the words used in the latter case, the circumstances here leave in their minds no doubt that the parties never intended that this



undivided share of this sitting-room should really be sold. The so-called sale was a mere device to evade the Registration Act....”

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31. Again the Privy Council in case Inuganti Venkatrama Rao (pg. 281-282) following the earlier Judgments held that such transactions are devices to evade the Registration Act –

“...Dealing with the question on these lines the Board held that the so-called sale was a mere device to evade the Registration Act and that the registration of the document was invalid....”

...Their Lordships think that it is the inevitable conclusion from these facts that neither did the vendor intend to sell, nor did the purchaser intend to buy, this almost ridiculous fraction of land, and that in the words of Lord Blanesburgh in the case last cited, the so-called sale of it was a mere device to evade the Registration Act. The result, in their opinion, is that there was no effective registration of the conveyance upon which the respondent seeks to defeat the appellant's claim, and that it was, therefore, no obstacle to the appellant's suit for possession, which they think was rightly decreed in his favour by the Subordinate Judge...”

32. Moreover, a bare reading of section 28(a) of the Registration Act -

“28. Place for registering documents relating to land.—Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) 3 [, (d) and (e), section 17, sub-section (2), insofar as such document affects immovable property,] and section 18, clauses (a), (b) 1 [(c) and (cc),] shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.”



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where the language is plain, it clearly shows that the object and intention is to confer jurisdiction for registration of a document with the office of the sub registrar on the properties are wholly situated within the sub district. It is not the intention to create a facility for different properties situated in different sub districts to be registered in the office of one Sub Registrar, for the simple reason the word, “property” is used in singular. The intention for using the disjunctive “or” and thereafter mentioning “some portion” which is relatable only to the word “property” used in singular, is to facilitate registration of a single property which falls outside the state of Tamil Nadu but some portion is within Tamil Nadu. Even then, it is only office of the sub registrar within whose jurisdiction that some portion falls will have the power to register the whole of the property. This may also be applicable to one single property or one item of property, undivided by metes and bounds, which falls within two sub registration districts. Then, the office of Sub Registrar, where some portion of the property lies, will have jurisdiction to register the entire extent. The intention is not to have two different properties that too owned by two persons divided by metes and bounds and lying within two different districts to be included in one sale deed and have the property falling completely outside the sub registration district to be registered in other sub registrar office. The intent is, not to divide the single unit of property for the purpose of registration and register it by two or more documents.

33. In the light of the definition of district and sub district in section 2(3) –

“2(3) “District” and “sub-district” respectively mean a district and sub-



district formed under this Act;”

read with section 28(a) which uses the word “shall” before “be presented in office of the sub registrar within whose sub district the whole or some portion of the property to which such document relates is situate” makes it very clear that the sub registrar cannot even receive a document pertaining to a property, unless atleast some portion of the property falls within his jurisdiction. The registration is a process which commences after presentation and receiving of the document. When the sub registrar is not empowered to receive the document the question of registering the same does not arise, as was held by the Supreme Court in the case of Assets Reconstruction Company India Limited reported in (2022) 8 SCC 210 pertaining to the very same property –

49. But we are not concerned in this case with the question whether the PoA relied upon by the power agent S.P. Velayutham in the sale deed executed by him, required authentication and whether the registering authority committed a blunder in accepting the sale deed presented by him for registration, without verifying the authentication of the PoA or not. We are concerned in this case with the most fundamental question whether the registering authority could have turned a blind eye to the fact that the deed of PoA on the basis of which the sale deed was executed as well as presented for registration by S.P. Velayutham contained an express prohibition for the power agent to create an encumbrance on the property, especially in the light of the Rules framed under Section 69 of the Act. The decision in Thota Ganga Laxmi [Thota Ganga Laxmi v. State of A.P., (2010) 15 SCC 207 : (2013) 1 SCC (Civ) 1063] , was in a way approved by



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a three-Member Bench in Satya Pal Anand [Satya Pal Anand v. State of M.P., (2016) 10 SCC 767 : (2017) 1 SCC (Civ) 1] , on the basis of the rules in the State of Andhra Pradesh, showing thereby that statutory rules also play a crucial role. Rajni Tandon [Rajni Tandon v. Dulal Ranjan Ghosh Dastidar, (2009) 14 SCC 782 : (2009) 5 SCC (Civ) 520] is not an authority for holding that the registering authority has no duty even to verify the presence or absence of a power of sale in the deed of PoA, especially in the light of the rules.

50. *In Amar Nath v. Gian Chand [Amar Nath v. Gian Chand, (2022) 11 SCC 460 : 2022 SCC OnLine SC 102] , this Court was concerned with a case arising out of peculiar circumstances. The said case arose out of a civil suit for a declaration of title and for permanent injunction. The plaintiff in that case entered into an oral agreement for the sale of his property and gave a special PoA in favour of the second defendant. But the agreement fell through and hence the plaintiff took back the original deed of PoA from the second defendant. However, the second defendant applied for a copy of the PoA and thereafter sold the property in collusion with the first defendant. Upon coming to know of the same, the original owner filed the suit as aforesaid, contending that the second defendant had no valid power and that the registering authority ought to have verified this aspect from the second defendant under Sections 32, 33 and 34 of the Registration Act, 1908. After trial, the trial court dismissed the suit on the ground that the cancellation of the PoA also required registration and that the mere writing of the word “cancelled” on the original PoA cannot be taken to mean that the power was validly cancelled. The first appellate court confirmed the judgment and decree of the trial court. While reversing the judgments of the trial court and the appellate court, the High Court opined [Gian Chand v. Amar Nath, 2008 SCC OnLine HP 264] that*



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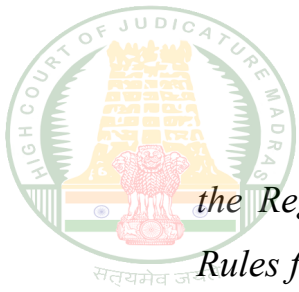
under Section 18-A of the Registration Act as applicable to the State of Himachal Pradesh, by way of an amendment under Himachal Pradesh Act 2 of 1969, the PoA ought to have accompanied the sale deed presented for registration and that if the Sub-Registrar had ensured this, he would have found that in view of the cancellation of the power, the agent ceased to have any power of sale.

51. This decision of the High Court was reversed by this Court in Amar Nath [Amar Nath v. Gian Chand, (2022) 11 SCC 460 : 2022 SCC OnLine SC 102] , after an exhaustive analysis of the provisions of the Registration Act, 1908. While doing so, this Court held in SCC para 40 as follows:

“40. For reasons, which we have indicated, Section 32(c) read with Section 33 and Section 34(2)(c) are interrelated and they would have no application in regard to the document presented for registration by a power-of-attorney holder who is also the executant of the document. In other words, there is really no need for the production of the original power of attorney, when the document is presented for registration by the person standing in the shoes of the second defendant in this case as he would be covered by the provisions of Section 32(a) as he has executed the document though on the strength of the power of attorney. To make it even further clear, the inquiry contemplated under the Registration Act, cannot extend to question as to whether the person who executed the document in his capacity of the power-of-attorney holder of the principal, was indeed having a valid power of attorney or not to execute the document or not.”

52. Though the passage extracted above, lends credence to the contention of the learned Senior Counsel for the contesting respondents, there is some difficulty in accepting the same as a proposition of law of universal application. There are two reasons why we say so. They are:

(i) As we have stated elsewhere, the interpretation of the provisions of



the Registration Act, would depend upon the State amendments and the Rules framed in each State under Section 69; and

WEB COP (ii) *In Amar Nath [Amar Nath v. Gian Chand, (2022) 11 SCC 460 : 2022 SCC OnLine SC 102] , the challenge to the sale was before the civil court, not merely on the ground that the registering authority failed to perform his duties, but also on the ground that the defendant conveyed what he could not have.*

Unfortunately, the parties in Amar Nath [Amar Nath v. Gian Chand, (2022) 11 SCC 460 : 2022 SCC OnLine SC 102] , appear to have gone on a wild goose chase. Instead of focussing their attack on the agent (who was the defendant in the suit), for executing the document without any power, the parties focussed their attack on the registering officer for permitting the registration of the document. This resulted in their failure. If a civil court finds that the sale by a power agent was unauthorised, then the question whether the registering officer performed his duties properly or not, would lose its significance. An attack on the authority of the executant of a document, is not to be mixed with the attack on the authority of the registering officer to register the document. The distinction between the execution of a document and the registration of the document is to be borne in mind while dealing with these questions.

53. *Actually, the registration of a document comprises of three essential steps among others. They are:*

(i) execution of the document, by the executant signing or affixing his left hand thumb impression;

(ii) presenting the document for registration and admitting to the registering authority the execution of such document; and



(iii) the act of registration of the document.

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54. In cases where a suit for title is filed, with or without the relief of declaration that the registered document is null and void, what gets challenged, is a combination of all the aforesaid three steps in the process of execution and registration. The first of the aforesaid three steps may be challenged in a suit for declaration that the registered document is null and void, either on the ground that the executant did not have a valid title to pass on or on the ground that what was found in the document was not the signature of the executant or on the ground that the signature of the executant was obtained by fraud, coercion, etc. The second step of presentation of the document and admitting the execution of the same, may also be challenged on the very same grounds hereinabove stated. Such objections to the first and second of the aforesaid three steps are substantial and they strike at the very root of creation of the document. A challenge to the very execution of a document, is a challenge to its very DNA and any defect or illegality on the execution, is congenital in nature. Therefore, such a challenge, by its very nature, has to be made only before the civil court and certainly not before the writ court.

55. The third step, namely, the act of registration, is something that the registering authority is called upon to do statutorily. While the executant of the document and the person claiming under the document (claimant)



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are the only actors involved in the first two steps, the registering officer is the actor in the third step. Apart from the third step which is wholly in the domain of the registering authority, he may also have a role to play in the second step when a document is presented for registration and the execution thereof is admitted. The role that is assigned to the Registrar in the second step is that of verification of the identity of the person presenting the document for registration.

56. Thus, the first two steps in the process of registration are substantial in nature, with the parties to the document playing the role of the lead actors and the registering authority playing a guest role in the second step. The third step is procedural in nature where the registering authority is the lead actor.

57. In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the registering authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted.



This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

58. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law.

34. Since the issue in the present Writ Appeal relates to registration of documents by the concerned Sub-Registrar office, which is an exercise of a quasi-judicial power of an authority the same is amenable under Article 226 of the Constitution of India. Even otherwise as was held by the Apex Court, this Court is empowered to see whether the registering authority has performed its duties ordained upon it in a manner prescribed by law.

35. The vendor of the subject property having come before this Court with a sworn Affidavit by way of a Counter stating that she is not the owner of the property and all the documents are forged which is not disputed, there cannot be a valid



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transfer as held by the Full Bench of this Court in the case of *Latif Estate* under section 54 of the Transfer of Property Act because the sale can be effected only by the owner and further as observed by the full bench, the purpose of registering a document is to give information to the people regarding legal rights and obligations -

30. Before deciding the question referred to the Full Bench, it would be relevant to discuss some of the provisions of the Registration Act. The Registration Act was enacted in 1908. The object and purpose of the said Act inter alia is to provide a method of public registration of document so as to give information to the people regarding legal rights and obligations arising or affecting a particular property and to perpetuate documents which may afterwards be of legal importance and also to prevent fraud. In other words, the object of registering the document is to give notice to the public at large that the document has been executed to prevent fraud and forgery and to secure a reliable and complete amount of all the transactions affecting the title to the property.

and allowing a fraudulent document on the files of the registration department would amount to retention of fraud to facilitating and perpetuating the illegality. Further in the case of *Suraj lamps reported in (2009) 7 SCC 363*, the Supreme Court has reasoned out object for registration of a document -

“18. Registration provides safety and security to transactions relating to



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immovable property, even if the document is lost or destroyed. It gives publicity and public exposure to documents thereby preventing forgeries and frauds in regard to transactions and execution of documents. Registration provides information to people who may deal with a property, as to the nature and extent of the rights which persons may have, affecting that property. In other words, it enables people to find out whether any particular property with which they are concerned, has been subjected to any legal obligation or liability and who is or are the person(s) presently having right, title, and interest in the property. It gives solemnity of form and perpetuate documents which are of legal importance or relevance by recording them, where people may see the record and enquire and ascertain what the particulars are and as far as land is concerned what obligations exist with regard to them. It ensures that every person dealing with immovable property can rely with confidence upon the statements contained in the registers (maintained under the said Act) as a full and complete account of all transactions by which the title to the property may be affected and secure extracts/copies duly certified.”

36. The contention that only through a civil suit the forged document, which is opposed to the public policy can be set aside cannot be accepted as was held in case of **Yanala Malleshwari** by the Full Bench of Andhra Pradesh High Court reported in



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27. It is a misconception that in every situation, a person who suffers injury by reason of a document can file a suit for cancellation of such written statement. Two conditions must exist before one invokes Section 31 of Specific Relief Act. These are : the written instrument is void or voidable against such person; and such person must have reasonable apprehension that such instrument if left outstanding may cause him serious injury. Insofar as Section 34 of the Specific Relief Act is concerned, it is no doubt true that a person entitled to any right as to any property can seek declaration that he is so entitled to such right. Here again, the person who claims the right to property can institute a declaration suit only when the defendant denies or interested to deny the title of the plaintiff. The difference between the two situations is glaring. In one case, cancellation of deed can be sought in a Court only by a person who executed document and who perceives that such document is void or voidable. In the other case, even if a person is not a party to the document, he can maintain a suit for declaration.

33. The law, therefore, may be taken as well settled that in all cases of void or voidable transactions, a suit for cancellation of a deed is not maintainable. In a case where immovable property is transferred by a person without authority to a third person, it is no answer to say that the true owner who has authority and entitlement to transfer can file a suit under Section 31 of the Specific Relief Act for the simple reason that such a suit is not maintainable. Further, in case of an instrument, which is void or voidable against executant, a suit would be maintainable for cancellation of such instrument and can be decreed only when it is adjudicated by the competent Court that such instrument is void or voidable and that if such



instrument is left to exist, it would cause serious injury to the true owner.

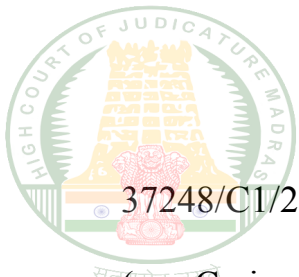
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37. The said observations were also taken note by the Full Bench of this Court in *Latif estates* which stands approved by the Supreme Court in the case of *Assets Reconstruction Company India Limited*.

38. The Supreme Court has also in the case of ***Thota Ganga Laxmi*** reported in **(2010) 15 SCC 207** has rejected similar contention –

“4. In our opinion, there was no need for the appellants to approach the civil court as the said cancellation deed dated 4-8-2005 as well as registration of the same was wholly void and non est and can be ignored altogether. For illustration, if A transfers a piece of land to B by a registered sale deed, then, if it is not disputed that A had the title to the land, that title passes to B on the registration of the sale deed (retrospectively from the date of the execution of the same) and B then becomes the owner of the land. If A wants to subsequently get that sale deed cancelled, he has to file a civil suit for cancellation or else he can request B to sell the land back to A but by no stretch of imagination, can a cancellation deed be executed or registered. This is unheard of in law.”

39. With regard to the other contention raised by the learned Senior Counsel, Mr. Isaac Mohan Lal that the Circular dated 29.06.2022 cannot be held to be retrospective, we are to hold that, the Circular dated 29.06.2022 in No.



W.A (MD) No. 462 of 2025

37248/C1/2021, being explanatory and clarification of the statute is retrospective (see Craies on Statutes Law, 7th edn. p.58) and therefore the 8th respondent act of registering the document registered as document no. 853 of 2013 in violation of section 28(a) is held to be null and void as per section 28 (b) of the Registration Act, 1908.

40. In the result, the Writ Appeal is allowed. The impugned order dated 24.10.2024 passed in W.P.(MD).No.17123 of 2024 is set aside. The act of the 8th respondent of registering the document registered as Document no. 853 of 2013 in violation of section 28(a) is held to be null and void as per section 28 (b) of the Registration Act, 1908. No costs.

[J NISHA BANU, J.] [S. SRIMATHY, J.]

03.06.2025

Index:Yes/No

Internet:Yes/No

Neutral Citation : Yes

nvsri

To

1.THE SUB-REGISTRAR, JOINT-I

46/49



W.A (MD) No. 462 of 2020

the Sub-Registrar Office, Tenkasi.

2. THE INSPECTOR GENERAL OF REGISTRATION,

No.100, Santhome High Road,
Chennai – 600 028.

3. The Chief Executive Officer,

GREAT LAKES MULTI STATE CO-OPERATIVE
HOUSING SOCIETY LIMITED

Having registered office at:

No. 76/190, South Car Street,
Srivilliputhur,
Tamil Nadu – 626125.

4. SELVARAJ

S/o Thambiran
Old Door No.3, New Door No.49,
Utchimahali Amman Kovil 1st Street,
Keelappuliyur,
Tankasi Taluk, Tirunelveli.

5. R.PANKAJAM,

W/o. Late Ramasamy Reddier,
No.440A, Neelpadai,
Radhanallur Railway Quarters,
Athipuliyur, Keelvelur Taluk,
Nagapatinam.

6. P.PAKKRISAMY,

No.129-5, 71-5,
Muthazhagi Amman Kovil Street,
Shencottai- 627 809.

7. ASSET RECONSTRUCTION COMPANY

INDIA LTD (ARCIL)

The Ruby, 10th Floor,
SenapatiBapat Marg,
Dadar (West), Mumbai – 400 028.

8. THE SUB-REGISTRAR

The Sub-Registrar Office, Alandur
12 Ist Main Road,

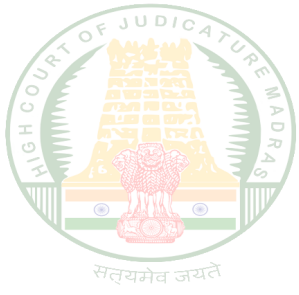


Nanganallur Co-Operative Society Lt,
Nanganallur, Chennai-600061.



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J NISHA BANU, J.

And

S. SRIMATHY, J

Pre-delivery Judgment in

W.A.(MD).No.462 of 2025

03.06.2025