



W.P.(MD) No.12675 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.10.2025
PRONOUNCED ON : 10.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.12675 of 2017
and
W.M.P(MD)Nos.9791 & 9792 of 2017

K.Subramanian

.. Petitioner

Vs.

- 1.The Deputy Registrar Of Co-Operative Societies (Housing),
Virudhunagar.
- 2.The Liquidation Officer / Co-Operative Sub Registrar Officer,
Virudhunagar.
- 3.The Registrar of Co-Operative (Housing),
22, 4th Main Road,
Adayar, Chennai 20.
- 4.S.N.Kumaraguru
(R4 is substituted vide Court order, dated 11.07.2021 in
W.M.P(MD)No.14704/2023)
- 5.N.Kasthuri
6. S.N.Shenbagam
(R5 & R6 are impleaded Vide Court Order Dated 13.12.2024 in
W.M.P(MD)No.25222/2024)



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned communication of the 1st respondent in N.K.No. 1890/2003/Sapa dated 22/08/2013 recommending for re-allotment of the property to the 4th respondent and communication of the 3rd respondent dated 24/10/2016 in N.K.No.4900/2016/Sapa-1 directing the 1st respondent to take follow-up action pursuant to his recommendation and communication dated 22/08/2013 and the communication by the 1st respondent to 2nd respondent dated 23.06.2017 in N.K.No. 1066/2016/Sapa and quash the same and forbearing the respondents 1 to 3 herein from interfering with the peaceful possession and enjoyment of the petitioner in Plot No.A-15 in Kalanivasal, Karaikudi, Sivaganga District allotted by Tamil Nadu Government Officials Co-operative Housing Society MDA-HSG 45 by resorting to cancellation of allotment sale deed dated 09.05.1995 in his favour.

For Petitioner : Mr.S.R.Ragunathan
for Mr.C.Narendren

For R1-R3 : Mrs.S.Jeyapriya
Government Advocate

For R4-R6 : Mr.S.Arivalagan



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ORDER

The above writ petition has been filed for the following relief :

“to call for the records of the impugned communication of the 1st respondent in N.K.No. 1890/2003/Sapa dated 22/08/2013 recommending for re-allotment of the property to the 4th respondent and communication of the 3rd respondent dated 24/10/2016 in N.K.No.4900/2016/Sapa-1 directing the 1st respondent to take follow-up action pursuant to his recommendation and communication dated 22/08/2013 and the communication by the 1st respondent to 2nd respondent dated 23.06.2017 in N.K.No.1066/2016/Sapa and quash the same and forbearing the respondents 1 to 3 herein from interfering with the peaceful possession and enjoyment of the petitioner in Plot No.A-15 in Kalanivasal, Karaikudi, Sivaganga District allotted by Tamil Nadu Government Officials Co-operative Housing Society MDA-HSG 45 by resorting to cancellation of allotment sale deed dated 09.05.1995 in his favour.”



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2. The facts as set out in the affidavit filed in support of the writ petition is hereinbelow set out :

2.1 The petitioner would submit that he was allotted Plot No.15-A in N.G.G.O.Colony, Kalanivasal, Karaikudi Town, Sivagangai District by the Karaikudi Government Servant Co-operative Housing Society. On 09.05.1995, a sale deed was also executed in his favour. Within two years of the sale, the petitioner in compliance of the bye-law of the society, had constructed a house which is assessed to tax.

2.2 It is the contention of the petitioner that the 4th respondent and other persons who were allotted various plots had not complied with the conditions of the bye-laws of the society as well as sale deed and therefore, after issuing notices and a paper publication, the allotment was cancelled and the society had resumed possession of the property.

2.3 Thereafter, the plots were allotted to others and Plot No.15-A was originally allotted to 4th respondent and after its cancellation, the same was allotted to the petitioner. Thereafter, the 4th respondent has



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managed to get allotment in favour of the petitioner cancelled without notice to the petitioner. On coming to know about the said order, the petitioner had filed W.P.No.8050 of 2000. By an order dated 12.10.2000, the order of the 1st respondent, Deputy Registrar was set aside and the matter was remitted back to him to conduct fresh enquiry after affording an opportunity to all the parties concerned. On 07.06.2002, the 1st respondent conducted a fresh enquiry and confirmed the allotment and sale deed in favour of the petitioner and cancelled the sale in favour of the 4th respondent on the ground that there is a violation of the conditions prescribed. The 4th respondent thereafter preferred an appeal to the 3rd respondent and by an order, dated 20.12.2014, the 3rd respondent directed the 1st respondent to enquire the 4th respondent and had also made observations regarding the cancellation of the sale deed executed in favour of the 4th respondent. This order was challenged by the petitioner by filing W.P.No.3276 of 2005. By an order, dated 16.11.2007, this Court was pleased to quash the observations made by the 3rd respondent with reference to the cancellation of sale deed in favour of the 4th respondent and the 1st respondent was directed to conduct enquiry afresh and pass



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orders after affording an opportunity including personal hearing to the parties.

2.4 It is the contention of the petitioner that for over 10 years, he had not received any notice from the respondents and his efforts to gather these details had drawn blank.

2.5 While so, the 4th respondent had filed W.P.No.4642 of 2017 stating that the order directing reallocation of the plot has been obtained by him and the order had also directed the cancellation of the sale in favour of the petitioner. The 3rd respondent had recommended to the 1st respondent to this effect and the 3rd respondent directed the 1st respondent to take necessary action for cancelling the sale deed in favour of the petitioner and reallocating the same to the 4th respondent. However, this order had not been implemented and therefore, the 4th respondent has come forward to file the above writ petition seeking a mandamus to consider his representation dated 21.02.2017.



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2.6 Thereafter, a show cause notice, dated 18.01.2017 was served to the petitioner as to why the allotment made in his favour should not be cancelled. The show cause notice made references to various orders. All of which had been passed without enquiry and without notice to the petitioner and also contrary to the directions issued by this Court in W.P(MD)No.3276 of 2005. The petitioner sent a reply to the above show cause notice and on 08.02.2017 and also filed an appeal before the Secretary to Co-operative Housing Society pointing out the violations done by the 1st respondent and the same is pending enquiry. Meanwhile, the 4th respondent had filed a contempt petition stating that despite orders of the Court, a sale deed had not been executed in his favour. Immediately the impugned order came to be passed and the contempt petition was closed on 27.06.2019. On 23.06.2017, the 1st respondent had issued a letter to the 2nd respondent to take steps for cancelling the allotment in favour of the petitioner. The petitioner would reiterated that he had not received any communication in this regard and nor was an enquiry conducted. Hence, the present writ petition has been filed for the relief stated supra.



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3.1 The 1st respondent has filed a counter affidavit *inter alia* contending that on 20.12.1985, Plot No.15-A was sold to the 4th respondent in whose favour the allotment had been originally granted. In 1995, the sale in favour of the 4th respondent had been cancelled on the ground that the 4th respondent had not put up construction within a period of two years as stipulated in the allotment order and the bye-laws. On 09.05.1995, the sale had been executed in favour of the petitioner by the then Special Officer of the Society. On 22.07.1999, the 4th respondent had made a petition to the 1st respondent and filed W.P.No.50 of 2000. This Court had directed the 1st respondent to consider the 4th respondent's petition.

3.2 Pursuant to the orders in W.P.No.50 of 2000, the 1st respondent had considered the 4th respondent's representation and directed the President of the society to execute a sale deed in favour of the 4th respondent by his order, dated 27.03.2000. This order has been challenged by the petitioner by filing W.P.No.8050 of 2000. By orders of the Court, the direction to the President was set aside and the 1st



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respondent was directed to consider the contentions of both the petitioner as well as respondents and pass orders.

3.3 On 07.06.2002, the 1st respondent held the allotment in favour of the petitioner to be correct, against which the 4th respondent preferred an appeal to the 3rd respondent. By communication dated 20.12.2004, the 3rd respondent ordered parties to maintain *status quo* and directed the 1st respondent to once again enquire with the 4th respondent and submit a report. This order was challenged by the petitioner in W.P(MD)No.3276 of 2005. By an order dated 16.11.2007, the order of the 3rd respondent was set aside and the 1st respondent was directed to conduct fresh enquiry after giving due opportunity to both parties and affording a personal hearing. The 1st respondent provided an opportunity for personal hearing 5 times. However, the present petitioner had not attended even one hearing. Thereafter, the enquiry was conducted and the allotment in favour of the petitioner was held to be invalid as no opportunity was given to the 4th respondent before the 1st respondent and had found the petitioner ineligible to get the allotment.



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3.4 The 1st respondent would hold that the petitioner is ineligible to get 'A' type plot for the following reasons :

(i) His pay scale was lower than the pay scale prescribed for allotment of 'A' type houses.

(ii) The file relating to the allotment in favour of the petitioner is not available in the Society.

(iii) The petitioner is not a resident of the area of operation.

(iv) Procedure for cancellation of allotment in favour of the 4th respondent was not followed even after an objection was raised via correspondence dated 28.02.2000.

(v) Allotment has been made to the petitioner though there was already a building in the property which had been constructed to the lintel level.

(vi) The cancellation notice sent to incomplete address of the 4th respondent.

(vii) The 4th respondent had already complied with the conditions of the allotment and sale by starting construction.



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3.5 The 1st respondent had submitted his enquiry report, dated 22.08.2013 to the 3rd respondent as directed by the orders, dated 16.11.2007 in W.P(MD)No.3276 of 2005. After perusing this report, by order dated 24.10.2016 the 3rd respondent had directed the 1st respondent to take steps to allot the plot to the 4th respondent and execute a sale deed in his favour. Meanwhile on 31.10.2010, the society got liquidated and was placed under the administrative control on the official liquidator under Section 138 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter called as the Act).

3.6 Thereafter, a show cause notice had been issued to the petitioner. The petitioner had not sent an explanation, but had filed an appeal before the 3rd respondent and the Secretary to Government. After obtaining favourable orders, the 4th respondent filed W.P(MD)No.4642 of 2017 to implement the communication of the 3rd respondent, dated 24.10.2016 and had also followed up with contempt petition in Cont.P(MD)No.842 of 2017. The 1st respondent would submit that the impugned order does not suffer from any infirmity and consequently, the



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writ petition should be dismissed.

4.1 The 4th respondent has filed a counter affidavit *inter alia* contending that while working as the Assistant Engineer, Public Works Department, Karaikudi, he had joined as member of the 3rd respondent society through the General Body Resolution, dated 15.12.1982. The society was registered with the object of allotment of plots to Government servants. The Tahsildar, Karaikudi had handed over possession of the land to the 3rd respondent and after taking possession of the same, the 3rd respondent had allotted the lands to its members.

4.2 On 23.06.1985, the 4th respondent was allotted Plot No.A.15 measuring 9.87 cents and the 4th respondent paid the entire sale consideration. Thereafter, a registered sale deed dated 20.12.1985 was executed in favour of the 4th respondent. The 4th respondent on taking possession of the property, had dug a well and started a construction. The construction had been made upto the lintel level. The 4th respondent would submit that he was not in a position to concentrate on the



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construction in the site as he had been transferred and was working away from Karaikudi. That apart, he had met with certain financial difficulties.

4.3 While so, the 4th respondent came to learn through friends that the allotment had been cancelled and a notification to this effect has been issued in the newspaper, wherein it is stated that despite notice issued directing the 4th respondent to complete construction, the same has been observed in breach.

4.4 He would further submit that as per Clause No.3 of the conditions of sale deed/allotment, the petitioner was directed to commence the construction within a period of two years. The petitioner has also commenced the construction and had reached the lintel level. On coming to know about the cancellation of the allotment in his favour, the 4th respondent had addressed a letter, dated 24.04.1995 to the 3rd respondent directing him to cancel the allotment in favour of the petitioner. To this, there was no response, which constrained the 4th respondent to file W.P.No.50 of 2000 seeking a relief of considering the



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representation dated 22.07.1999. By an order dated 12.01.2000, the writ petition was allowed and the authorities are directed to reconsider the representation and pass orders within a period of four months. On 10.03.2000, the petitioner and the 4th respondent had appeared before the 3rd respondent and made their submissions. The main argument advanced on the side of the 4th respondent was that the records relating to including the petitioner as a member has not been produced, on the contrary this record is stated to have been lost. There is no explanation as to how the plot was allotted to the member with Membership No.637 when members at Serial Nos. 264 to 636 had not yet been issued any allotment. The petitioner has jumped the queue and has obtained an allotment in his favour. All of which appears suspicious. That apart, it is stated that the petitioner's salary did not fall within the eligibility criteria for allotting 'A' type houses. Despite which, the property has been allotted to the petitioner. Therefore, he would submit that since the 3rd respondent has considered all of the above, he has come to the conclusion that the allotment in favour of the petitioner has to be cancelled and property reallocated to the 4th respondent. Therefore, he would seek to have the writ



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petition dismissed.

5. Though oral arguments were made on behalf of the writ petitioner, the same was subsequently reduced into writing in the form of written arguments. The grounds on which the impugned order was sought to be challenged are set out herein below :

(a) The Registrar lacks authority under Section 90 of the Act to entertain the claim. It is the contention of the petitioner that under Section 90(5), the Registrar's authority is limited to disputes contemplated and explained under Section 90(1) of the Act. Section 90(1) strictly limits the jurisdiction of the Registrar to settlement of disputes and explanation (ii) to Section 90 states that the jurisdiction of the Registrar is limited to a claim made by a registered society against a past member or the nominee, heir or legal representative of a deceased member for delivery of possession to the society of land or other immovable property resumed by it for breach of conditions of assignment or allotment of such land or other immovable property. The petitioner would submit that a mere reading of the Section would clearly indicate



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that the same is limited to claims by the society itself. In the instant case, the society has not made any claim against the petitioner's allotment and title. The society by registering the sale deed in favour of the petitioner on 09.05.1995 has divested itself of all its rights and therefore, the respondents 1 and 2 cannot exercise authority under Section 90 (1) (ii) in the absence of the society asserting such a claim. It is the further contention of the petitioner that the 4th respondent's allotment was cancelled and the site resumed on 08.03.1995. This order has reached finality and has not been challenged. The present challenge is only to the re-allotment of the site in petitioner's favour which is impermissible under the Act. That apart, the society which had allotted the property has been dissolved and it is not in existence. Once the society stands dissolved, there is no constitution, management or business, that can be the subject of dispute under Section 90. Therefore, the impugned order directing the cancellation has to necessarily be set aside as it is ultra vires, without jurisdiction and coram non judice.

(b) The second point that has been canvassed is that the claim of



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the 4th respondent is barred by constructive res judicata inasmuch as the 4th respondent had instituted a suit O.S.No.102 of 1998 on the file of the Sub Court, Devakottai raising the very same issue. However, since the same issues agitated through administrative representations and writ petitions, the 4th respondent had withdrawn the suit without seeking any opportunity. Therefore, it has to be deemed that the 4th respondent had abandoned his claim to title. The petitioner would rely upon the judgment of the Hon'ble Supreme Court reported in **2024 SCC Online SC 3727 (Celir Llp Vs. Sumati Prasad Bafna & Others)** to buttress his argument. Therefore, in the light of the above, it is the argument of the petitioner that the 4th respondent's claim is barred.

(c) The petitioner would further submit that there is violation of principles of natural justice inasmuch as the directions issued by this Court in W.P(MD)No.3276 of 2005 has not been taken note of. The order had directed the Registrar to conduct a fresh enquiry after affording a personal hearing to all the parties concerned. Despite such directions, the petitioner was not heard before the impugned communications, dated



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22.08.2013, 24.10.2016 and 23.06.2017 were passed. Therefore, on all these ground, he would seek to have the writ petitions dismissed.

6. The learned counsel for the 4th respondent would submit that the allotment in his favour has been cancelled without notice to him and without hearing him. He would further submit that the allotment in favour of the petitioner had taken place after the 4th respondent had objected to the action of the society in cancelling the sale in his favour. That apart, the allotment in favour of the petitioner had been cancelled by the Deputy Registrar after taking into consideration all the facts, particularly the non-service of a prior notice to the 4th respondent, the petitioner not being eligible for 'A' type house in the light of his salary etc. The learned counsel would rely upon the judgment of the Hon'ble Division Bench of this Court in W.A(MD)Nos,56 of 2012 & 598 of 2011 where in identical circumstances, the Hon'ble Division Bench had held the unilateral cancellation of the sale deed without proper notice was null and void and consequently, declared the subsequent allotment as non-est in law and void. As a postscript to the judgment, it was also held that the



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subsequent allottee therein had put up the building after being aware of the allotment in favour of the petitioner therein. He would submit that the facts of this case would apply squarely to the case on hand and therefore, he would submit that no exception can be taken to the order under deal.

7. Heard the learned counsels on either side.

8. Discussion :

8.1 The admitted facts of the case is that the subject property was originally allotted to the 4th respondent by the Tamil Nadu Government officials Co-operative House site Society Ltd., Karaikudi. The 4th respondent was a member of this society having a membership No.8. The property has been allotted to the 4th respondent by draw of lots. Thereafter, the property has been sold by the society to the 4th respondent under a sale deed dated 20.12.1985 registered as Document No.2112 of 1985 on the file of the Joint Sub-Registrar II, Karaikudi on payment of the total sale consideration of Rs.987/-. One of the conditions of the sale is that the 4th respondent should commence construction of a building



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within two years from the date of sale and the sale was subject to the conditions of the lay out and by-laws of the society. The petitioner after his purchase, has dug a well and commenced construction of the building. (This fact stated in the counter of the 4th respondent has not been refuted by the petitioner.) The allotment in favour of the 4th respondent is cancelled by the President of the society on 08.03.1995 and the plot is sold to the petitioner on 09.05.1995.

8.2 It is the 4th respondent's contention that he has not received any notice from the society prior to the cancellation or even thereafter when the property was sold to the petitioner. The 4th respondent has come to know about the cancellation only on 22.04.1995 when he contacted his friend. On the very same day, the 4th respondent has addressed the society assuring them that he would complete the construction and putting them on notice that he has not received any notice prior to the cancellation. On that date, the property had not been sold to the petitioner and it was only on 09.05.1995 that the same has been sold to the petitioner. The argument of the 4th respondent is that he has not been put on notice prior



to the cancellation of his allotment and the allotment in favour of the petitioner is contrary to the bye-laws of society and the allotment in favour of the 4th respondent is questionable. In fact, principles of natural justice has been flouted in the case of the cancellation of the 4th respondent's allotment. The Hon'ble Division Bench of this Court in a similar circumstances cancelled the subsequent allotment by holding that the earlier allotment had been cancelled without notice to the allottee therein. The Hon'ble Division Bench in the aforesaid judgment in ***W.A(MD)Nos.56 of 2012 and 598 of 2011 (K.R.Subbaiah & Others Vs. R.Ramasubbu & Others)*** had observed as follows :

21. In fine, the unilateral cancellation of the sale deed without proper notice is null and void and contrary to the principles of the natural justice. Therefore, the same is liable to be set aside. Accordingly, the cancellation of sale deed is set aside. As a consequence, the subsequent allotment in favour of the fourth respondent/appellant in W.A.(MD)No.56 of 2012 is non-est in law and declared as void. As a result, W.A.(MD)No.598 of 2011 is allowed and W.A. (MD)No.56 of 2012 filed by the fourth respondent is dismissed. No costs

22. This Court is conscious of the fact that the fourth respondent has invested money to put up construction in the



Plot allotted to him in a dubious manner and contrary to law. However, he being privy to the said dubious act has to suffer. Insofar the building put up by him is concerned, he shall remove the superstructure and hand over the vacant site to the appellant/writ petitioner within a period of six months from today or in alternate, he shall get compensation for the building from the writ petitioner any amount agreeable by both parties and hand over possession of the Plot with building. This is only a suggestion of this Court to set a platform for a win-win situation and not judicially enforceable.

8.3 In the case of the 4th respondent, he had been inducted as a member of the society by resolution no.6 dated 15.12.1982 of the general body of the society. Thereafter, by resolution no.1 dated 23.06.1985 it was decided to allot Plot No.15 to the 4th respondent. Thereafter, on receiving the entire sale consideration, the property was sold to the 4th respondent.

8.4 Coming to the case of the petitioner, he claims to have been inducted as a member of the society having membership No.637. There is no information regarding the date on which the petitioner have been



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inducted as a member, the resolution to this effect and the date of the resolution by virtue of which it was decided to allot Plot No.15-A to the petitioner. Further, there is no proof to show the notices that have been sent to the 4th respondent to show cause as to why the allotment in his favour should not be revoked, more particularly when a registered sale deed has been executed in favour of the 4th respondent. The order of the 3rd respondent, dated 07.06.2002 would read that a single notice dated 21.02.1995 had been sent to the 4th respondent as to why the allotment in his favour should not be cancelled and which was followed a paper publication dated 08.03.1995 issued in the Tamizh daily Dinathanthi informing the cancellation on the ground that the construction of the house has not been completed. The 4th respondent's contention is that in April 1986, he had dug a well and by 22.04.1995 the construction was at the lintel level. The recitals of the sale deed in favour of the 4th respondent, particularly Clause No.3 would stipulate that the purchaser should commence construction of a building within two years, the condition does not read that the construction should be completed, which is the only ground on which the allotment in favour of the 4th respondent



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has been cancelled. Therefore, the very cancellation is *ex facie* erroneous.

8.5 Further, the allotment in favour of the petitioner is questionable for the following reasons :

(i) The records relating to the petitioner's induction as a member of the society and the resolution proceeding the allotment in his favour have not been produced and these records are conveniently stated to be not available.

(ii) The report of the 1st respondent dated 22.08.2013 would spell out that the petitioner was inducted as a member only on 09.01.1995, a Member No.637. The member from 274 to 636 had not been allotted plots. However, the petitioner who was inducted as member No.637 on 09.01.1995 is allotted.

(iii) The 1st respondent would submit that the petitioner is also not entitled for allotment as his pay scale is below the pay scale stipulated for the 'A' type houses. Therefore, in all respects, the allotment in favour of the petitioner is against the rules and is highly questionable.



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8.6 The petitioner has argued that the Registrar does not have the jurisdiction under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 to pass the impugned order. In this regard, it is seen that the petitioner had filed W.P(MD)No.3276 of 2005 challenging an order dated 20.12.2004 passed by the 3rd respondent herein viz, the Registrar of Societies. By order dated 16.11.2007, this Court had passed the following order :

“7. In view of the above facts and circumstances, the observation made by the fourth respondent before ever a final order was passed by him stands quashed. The first respondent as well as the petitioner herein are directed to participate in the enquiry that would be taken up by the third respondent and the third respondent is directed to submit a report based on the enquiry to be conducted as directed by the fourth respondent, after giving personal hearing not only to the first respondent, but also to the petitioner. The fourth respondent shall thereupon take up the revision and decide the same finally.”

8.7 Pursuant to this, the 1st respondent, Deputy Registrar has submitted his report, dated 22.08.2013 to the 3rd respondent. By order, dated 24.10.2016, the 3rd respondent had directed the 1st respondent to



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allot Plot No.15 to the 4th respondent and to take steps to register the same. However, the 1st respondent had failed to comply with the direction. Therefore, the 4th respondent appears to have made a representation on 21.01.2017. Prior to this, the 1st respondent had issued a show cause notice dated 18.01.2017 to the petitioner asking him to show cause as to why his reallocation should not be cancelled within 7 days. Since there was no further action on the part of the 1st and 3rd respondents, the 4th respondent had filed W.P(MD)No.4642 of 2017 seeking a mandamus to the 1st respondent to dispose of the petitioner's representation, dated 21.02.2017 in the light of the order of the 3rd respondent dated 24.10.2016 and direct 1st respondent to cancel the reallocation order made in favour of the petitioner. By order dated 20.03.2017, this Court has directed the 1st respondent to dispose of the representation within a period of eight weeks. Ultimately, the impugned order has been passed by the 1st respondent.

8.8 All these orders have been passed as per orders of this Court in various proceedings and the petitioner has at no point in time questioned



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the jurisdiction of the 1st or 3rd respondents.

8.9 The argument that principles of natural justice has been violated would also not apply in the instant case since the report of the 1st respondent dated 22.08.2013 and the impugned order has been prepared after hearing the petitioner and 4th respondent and is in tune with the order dated 16.11.2007 in W.P(MD)No.3276 of 2005.

8.10 Further, when the cancellation of the allotment in favour of the 4th respondent and the reallocation in favour of the petitioner smacks of fraud, it does not lie in the mouth of the petitioner to question the order passed cancelling the reallocation in favour of the petitioner. That too when the reallocation has been made after the 4th respondent has questioned the cancellation of his allotment.

8.11 The petitioner has further questioned the impugned order and the proceedings initiated by the 4th respondent as hit by the principles of Res Judicata. It is his contention that having withdrawn the suit O.S.No.



102 of 1998 filed by the 4th respondent before the Sub Court, Devakottai without liberty to file a fresh proceedings, the 4th respondent cannot maintain the present proceedings for the very same relief. It is their contention that by withdrawing the suit, the 4th respondent has abandoned the claim. In support of the said argument, the petitioner has also relied upon the judgment of the Hon'ble Supreme Court reported in **2024 SCC Online 3727 (Celir Llp Vs. Sumati Prasad Bafna & Others)**.

8.12 This judgment and the question of Res Judicata does not apply to the facts of the instant case. As in the instant case, the cancellation of the allotment in favour of the 4th respondent and the reallocation in favour of the petitioner is questionable from the detailed discussion in the foregoing paragraphs. The Hon'ble Supreme Court in 2010 (8) SCC 383 (Meghmala & Others Vs. G.Narasimha Reddy & Others) have held as follows:

“28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent authority, such order cannot be sustained in the eye of law. "Fraud avoids all judicial acts



ecclesiastical or temporal." (Vide S.P.Chengalvaraya Naidu v. Jagannath). In Lazarus Estate Ltd. v. Beasley the Court observed without equivocation that : "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."

"34. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the 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. 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. Suppression of a material document would also amount to a fraud on the court....."

"36. From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of res judicata are not attracted. Suppression of any material fact/document amounts to a fraud on the court. Every court has an inherent power to recall its own order obtained by fraud as the order so obtained is non est."



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9. Therefore, from a conspectus of the above discussion, this Court see no reason to interfere with the impugned order. In fine, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Deputy Registrar Of Co-Operative Societies (Housing),
Virudhunagar.
- 2.The Liquidation Officer / Co-Operative Sub Registrar Officer,
Virudhunagar.
- 3.The Registrar of Co-Operative (Housing),
22, 4th Main Road,
Adayar, Chennai 20.



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10.11.2025