IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 06 / 04 / 2026

Judgment Delivered on : 01 /06 /2026

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A.Nos. 324 & 325 of 2017
and 219 & 220 of 2022
and
C.M.P.Nos. 20077 & 20078 of 2017

O.S.A.No.324 of 2017

V.Kimis (Died)

2. Jayaseeli Mathurabai Asir Packianathan
3. Arasnath Kimis
4. Sasibai Kimis
5. Kijaynath Kimis
6. Jakibai Kimis
7. Poomabai Kimis ... Appellants

[Appellants 2 to 7 brought on record as legal heirs of the deceased 1st appellant viz., (Kimis) vide Court order dated 28.03.2022 passed in C.M.P.No.18693 of 2019 in O.S.A.No.324 of 2017]

Vs.

1. Johnsy Pappa
2. D.Ramraj
3. R.Vijayaraghavan
4. V.Malathy ... Respondents

Original Side Appeal filed under Order XXXVI Rule II of the Madras High Court Original Side Rules read with Clause 15 of Letters Patent, to set aside the common judgment and decree dated 03.02.2017 made in C.S.No.247 of 2010 and thereby decree the suit in C.S.No.247 of 2010.

O.S.A.No.325 of 2017

V.Kimis (Died)

2. Jayaseeli Mathurabai Asir Packianathan
3. Arasnath Kimis
4. Sasibai Kimis
5. Kijaynath Kimis
6. Jakibai Kimis
7. Poomabai Kimis ... Appellants

[Appellants 2 to 7 brought on record as legal heirs of
the deceased 1st appellant viz., (Kimis) vide Court order dated
28.03.2022 passed in C.M.P.No.18689 of 2019 in O.S.A.No.325 of 2017]

Vs.

1. Johnsy Pappa
2. K.Simpson
3. Senthil Kumar ... Respondents

Original Side Appeal filed under Order XXXVI Rule II of the Madras High Court Original Side Rules read with Clause 15 of Letters Patent, to set aside the common judgment and decree dated 03.02.2017 made in C.S.No.593 of 2010.

O.S.A.No.219 of 2022

1. Johnsy Pappa
2. D.Ramraj ... Appellants

Vs.

1. V.Kimis (Died)
2. R.Vijayaraghavan
3. V.Malathy
4. Jayaseeli Mathurabai Asir Packianathan
5. Arasnath Kimis
6. Sasibai Kimis
7. Kijaynath Kimis
8. Jakibai Kimis
9. Poomabai Kimis ... Respondents

[Respondents 4 to 9 brought on record as legal heirs of the deceased 1st respondent viz., (Kimis) vide Court order dated 18.04.2022 passed in C.M.P.Nos.18629 & 18633/2021 and 18693/2019 in O.S.A.Sr.Nos.62309 & 62311/2017 and 324/2017]

Original Side Appeal filed under Order XXXVI Rule I of the Madras High Court Original Side Rules read with Clause 15 of Letters Patent, to set aside the judgment and decree dated 03.02.2017 made in C.S.No.247 of 2010 insofar as it relates to payment of Rs.1,18,76,143.29/- to the plaintiff within a period of three months from the date of decree with further interest at the rate of 6% p.a on the sum of Rs.52,60,000/- from the date of decree till date of realization.

O.S.A.No.220 of 2022

Johnsy Pappa ... Appellant

Vs.

1. V.Kimis (Died)
2. K.Simpson
3. Senthil Kumar
4. Jayaseeli Mathurabai Asir Packianathan
5. Arasnath Kimis
6. Sasibai Kimis
7. Kijaynath Kimis
8. Jakibai Kimis
9. Poomabai Kimis ... Respondents

[Respondents 4 to 9 brought on record as legal heirs of the deceased 1st respondent viz., (Kimis) vide Court order dated 18.04.2022 passed in C.M.P.Nos.18629, 18633/2021 and 18693/2019 in O.S.A.Sr.No.62309, 62311/2017 and 324/2017]

Original Side Appeal filed under Order XXXVI Rule I of the Madras High Court Original Side Rules read with Clause 15 of Letters Patent, to set aside the judgment and decree dated 03.02.2017 made in C.S.No.593 of 2010.

For Appellants : Mr.S.R.Raghunathan
in O.S.A.Nos.324 and 325 of 2017
and for R4 to R9 respondents in
O.S.A.Nos.219 and 220 of 2022

For Respondents : Mr.R.Thiagarajan
for R1 and R2
in O.S.A.No.324 of 2017
and R1 in O.S.A.No.325 of 2017

and for appellants in
O.S.A.Nos.219 & 220 of 2022
Mr.Abul Faiz M. for R3 and R4
in O.S.A.No.324 of 2017

R2 and R3 – Given up in
O.S.A.Nos.325 of 2017
and 219 & 220 of 2022
R1 – Died in O.S.A.No.219 & 220/2022

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COMMON JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

These intra-Court Appeals are directed against the common judgment dated 03.02.2017 rendered by the learned Single Judge in C.S.Nos.247 and 593 of 2010.

2. Since the subject matter in controversy in both the captioned appeals is identical, the parties are also the same, and both appeals challenge the very same judgment passed by the learned Single Judge of this Court, the appeals were heard together and are being disposed of by this common judgment.

3. For the sake of convenience and clarity, the parties are referred to as per their ranking in C.S.No.247 of 2010.

4. The brief facts, in a nutshell, are as follows:

4.1 The plaintiff in C.S.No.247 of 2010 (since deceased, V.Kimis) a Malaysian National of Indian Origin, was engaged in various business activities in Malaysia. In the year 1994, he incorporated a Company, namely M/s.Phoenix Technology Corporation Private Limited at Bangalore. The second defendant, Ramaraj, who is the sister's son of the plaintiff, was appointed as Branch-in-Charge of the Chennai branch office. The first defendant, Johnsy Papa, is the wife of the second defendant. One Kamaraj, the brother of the second defendant, was appointed as Director of the said Company.

4.2 The suit property, being a house, ground and premises bearing Door No.41/B, Pasumarthy Street, Rangarajapuram, Kodambakkam, Chennai, ad-measuring about one ground and 21 sq.ft., with a superstructure of approximately 1700 sq.ft. (comprising about 800 sq.ft. on the ground floor and 900 sq.ft. on the first floor), was taken on lease by the said Company for use as guest house. The plaintiff retained a room on the first floor and the entire second floor for his exclusive use, while permitting the family members of the second defendant to occupy the ground floor and a portion of the first floor.

4.3 As the Company was incurring loss, the plaintiff infused funds from Malyasia for its sustenance. In the course of time, the plaintiff was informed that the suit property was available for sale. Expressing his intention to purchase the same, the plaintiff authorized the second defendant to negotiate the transaction. The sale consideration was stated to be Rs.98,00,000/-. On 02.03.2007, the second defendant received a sum of 2,64,500/- Malaysian Ringgits (equivalent to Rs.34,00,000/- [Rupees Thirty Four Lakhs only]) from the plaintiff in Malaysia as advance towards the proposed purchase. Subsequently, a further sum of Rs.64,00,000/- (Rupees Sixty Four Lakhs Only) was paid by way of Demand Draft in April 2008 in favour of the fourth defendant. In addition thereto, on the representation of the second defendant that he was facing acute financial difficulties, the plaintiff raised a sum of Rs.9,50,000/- from his friends in India and paid the same to the second defendant.

4.4 While that being so, on 14.01.2010, the plaintiff received an unsigned letter dated 08.01.2010 from the second defendant, purporting to set up an agreement of sale in his favour in respect of the suit property. Subsequently, the plaintiff came to know that the second defendant, acting as the Power of Attorney agent of the third defendant, had caused a sale deed to be executed in favour of the first defendant. The Power of Attorney dated 02.05.2008 was registered as Document No.860 of 2008, and the sale deed dated 31.12.2009 was registered as Document No.4118 of 2009.

4.5 The sale deed dated 31.12.2009 recites a consideration of only Rs.52,60,000/- (Rupees Fifty Two Lakhs and Sixty Thousand only). On aware of these developments, the plaintiff lodged a criminal complaint on 20.01.2010, in Crime No.51 of 2010 before the Central Crime Branch, Chennai. Thereafter, the second defendant approached the plaintiff and undertook to re-convey the suit property. He also handed over the original sale deed dated 31.12.2009 executed by the third defendant in favour of the first defendant, and defendants 1 and 2 prepared an agreement of sale in respect of the suit property, along with a Power of Attorney in favour of the plaintiff. However, the plaintiff subsequently realised that the said documents were illusory in nature, inasmuch as the Power of Attorney was not valid in law, in the absence of compulsory registration as mandated under the prevailing statutory requirement, and the recitals in the agreement did not reflect the true nature of the transaction.

4.6 The second defendant, being an employee and agent of the plaintiff, stood as fiduciary capacity, but acted in breach. The plaintiff further came to know that the second defendant had committed serious irregularities in the affairs of the Company. The criminal investigation revealed that a sum of Rs.2,00,000/- was withdrawn in cash on 05.02.2007, just before the alleged agreement of sale entered on 09.02.2007. It was also revealed that a sum of Rs.20,00,000/- transferred to the Company, had been fraudulently diverted by the second defendant to his personal account, and utilised towards payment of sale consideration to the third defendant. Hence, the plaintiff instituted a suit in C.S.No.247 of 2010, seeking, *inter alia,* a declaration that the sale deed dated 31.12.2009 executed by the second defendant in favour of the first defendant, is null and void, and also for recovery of money and for consequential and other appropriate reliefs and for costs.

4.7 As a counterblast to the suit in C.S.No.247 of 2010 as well as the criminal complaint lodged by the plaintiff, the first defendant, Johnsy Pappa, initiated proceedings in C.S.No.593 of 2010. According to her, the second defendant, Ramaraj, had initially developed the plaintiff's business operations at Chennai, however, owing to subsequent differences, he severed his association and commenced an independent venture in the same line of business. It is her case that the plaintiff thereafter returned to India and filed a false case. The first defendant alleged that the plaintiff, in collusion with one Senthil Kumar, Inspector of Police, Central Crime Branch Chennai, forcibly obtained possession of the original sale deed dated 31.12.2009 relating to the suit property, along with a Power of Attorney and an Agreement of Sale, both dated 05.02.2010. It was alleged that the said documents were brought into existence in haste, and that she was compelled to execute them under coercion. It was also alleged that the plaintiff had affixed his signature on pages 1 to 3 of the Power of Attorney, without any authority. The agreement of sale is purported to reflect a consideration of Rs.64,00,000/-, out of which a sum of Rs.53,50,000/- was shown as having been paid on the date of execution itself, however, she disputes the correctness of the said recitals. She claims to be the absolute owner of the suit property, having purchased the same from the third defendant, R.Vijayaraghavan, out of funds generated from the earnings of the second defendant, supplemented by the sale of her jewels and loans raised from close relatives and friends. It is her case that, upon receipt of the entire sale consideration, the third defendant executed a Power of Attorney in favour of the second defendant, who, in turn, executed the sale deed in her favour. The allegation of the plaintiff that he had paid a sum of Rs.98,00,000/-, partly in cash, and by way of Demand Draft towards the purchase of the suit property, was specifically denied by the first defendant as being wholly unfounded. Hence, the first defendant preferred C.S.No.593 of 2010 and sought a declaration that the Power of Attorney and Agreement of Sale, both dated 05.02.2010, are void and not binding on her, together with a mandatory injunction for return of the original title deed (Doc.No.4118 of 2009, on the file of the Sub Registrar Office, Kodambakkam), and also for a permanent injunction restraining the plaintiff from in any manner alienating, encumbering, or otherwise dealing with the suit property, along with other consequential reliefs.

4.8 On the basis of the pleadings of the parties and materials available on record, the learned Single Judge framed the following issues in both the suits:

Issues in C.S.No.247 of 2010 :

1. Whether the present suit is maintainable?

2. Whether the suit has been properly valued and correct Court fee has been paid by the plaintiff?

3. Whether the consideration paid by the plaintiff was used for purchase of the suit schedule mentioned property?

4. Whether the sale deed dated 31.12.2009 registered as document No.4118 of 2009 is liable to be declared as null and void?

5.Whether the plaintiff is entitled to mandatory injunction directing the 3rd defendant to execute the sale deed in respect of the suit schedule mentioned property in his favour?

6. Whether the plaintiff is entitled to vacant possession of the suit property?

7. Whether the plaintiff is entitled to consequential relief directing the 1st defendant to execute deed of re-conveyance of the suit property in his favour?

8.Whether the defendants are liable to pay Rs.11,40,000/- to the plaintiff?

9. Whether the defendants 1 and 2 are liable to pay Rs.34,00,000/- to the plaintiff?

10. Whether the defendants 1 and 2 are liable to pay Rs.1,00,000/- per month towards mesne profits to the plaintiff ?

11.Whether the defendants 3 and 4 are necessary parties?

12. Whether there is any privity of contract between the plaintiff on the one hand and the defendants 3 and 4 on the other hand and whether the plaintiff is entitled to any reliefs against the defendants 3 and 4?

13. Whether the plaintiff is entitled to interest? If so at what rate and for what period?

14. Whether the plaintiff is entitled to costs?

15. To what reliefs the plaintiff is entitled to?

Issues in C.S.No.593 of 2010 :

1. Whether the defendants 2 and 3 are a proper and necessary party to the suit?

2. Whether the 1st defendant forced the plaintiff and her husband to produce the original sale deed dated 21.12.2009 registered as Doc.No.4118 of 2009 on the file of SRO, Kodambakkam, with the active collusion and connivance of the 3rd defendant?

3. Whether the 1st defendant is not liable to return the original title deed dated 31.12.2009 registered as Document No.4118 of 2009 on the file of SRO, Kodambakkam to the plaintiff?

4. Whether the plaintiff is entitled to get a prohibitory injunction decree against the 1st defendant as prayed for?

5. Whether the 1st defendant forced the plaintiff to sign the Power of Attorney dated 5.2.2010 in favour of the 2nd defendant for the suit property with the active collusion and connivance of the 3rd defendant?

6. Whether the Power of Attorney dated 05.02.2010 is void or not?

7. Whether the 1st defendant forced the plaintiff to execute the sale agreement dated 5.2.2010 in favour of the 1st defendant for the suit schedule property?

8. Whether the sale agreement dated 5.2.2010 is void or not?

9. Whether the plaintiff is entitled to get a mandatory injunction against the 1st defendant to return the sale deed dated 31.12.2009 registered as Document No.4118 of 2009 on the file of SRO, Kodambakkam?

10. Whether the plaintiff is entitled to cost?

11. To what other reliefs, the plaintiff is entitled?

4.9 Upon framing of the issues, both suits were taken up for joint trial. The plaintiff in C.S.No.247 of 2010 examined himself as P.W.1 and marked

Exs.P1 to P11. On the side of the defendants, the second defendant in C.S.No.247 of 2010 examined himself as D.W.1 and marked Exs.D1 to D40. On completion of the full-fledged trial, the learned Single Judge, by common judgment dated 03.02.2017, partly decreed the suit to the extent indicated hereunder:

> (i) The defendants 1 and 2 in C.S.No.247 of 2010 are due and liable to pay to the plaintiff in C.S.No.247 of 2010, a sum of Rs.52,60,000/- (Rupees Fifty Two Lakhs Sixty Thousand only) which shall carry interest at 18% p.a from the date of the plaint till the date of decree and thereafter, at 6% p.a from the date of decree till the date of realisation. Time for payment is three months.
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> (ii) The plaintiff in C.S.No.247 of 2010 is directed to hand over the original sale deed dated 31.12.2009 registered as Document No.4118 of 2009 to the plaintiff in C.S.No.593 of 2010, within three months.
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> (iii) There shall be a prohibitory injunction restraining the plaintiff in C.S.No.247 of 2010 from dealing with the suit property in any manner till he hands over the sale deed dated 31.12.2009 registered as Document No.4118 of 2009.
>
> (iv) The sale agreement and the Power of Attorney both dated 05.02.2010 are not binding on any of the parties to both the litigations.

(v) There shall be no order as to costs in both the suits.

5. Aggrieved by the said common judgment and decree, the plaintiff in C.S.No.247 of 2010, being aggrieved over the directions of the learned Single Judge to return the original title deed dated 31.12.2009 and by grant of prohibitory injunction restraining him from dealing with the suit property, has preferred the appeals in O.S.A.Nos.324 and 325 of 2017.

5.1 The plaintiff in C.S.No.593 of 2010 (who is the first defendant in C.S.No.247 of 2010) being aggrieved by the direction to pay a sum of Rs.52,60,000/- (Rupees Fifty Two Lakhs Sixty Thousand only) together with interest, and also challenging the finding that the Sale Agreement and Power of Attorney, both dated 05.02.2010 are not binding on any of the parties to the litigations, has filed O.S.A.Nos.219 and 220 of 2022.

6. Mr.S.R.Raghunathan, learned counsel for the plaintiff submitted that the entire sale consideration in respect of the suit property, was paid by the plaintiff, and that the second defendant, acting in a fiduciary capacity, committed breach of trust by causing the sale deed to be executed in favour of

the first defendant. It is therefore submitted that the transaction is vitiated by fraud and the plaintiff is entitled to the reliefs sought in the plaint.

7. The learned counsel for the plaintiff mainly contended that while the learned Single Judge rightly held that the entire sale consideration for the purchase of the suit property, emanated from the plaintiff and that defendants 1 and 2 had no independent source of funds, he erred in declining to grant the relief of cancellation of the sale deed, which is legally unsustainable. He further submitted that the finding of a lack of due diligence on the part of the plaintiff, is contrary to the evidence on record, specifically, payment of Rs.64,00,000/- towards the purchase of the suit property, rather than for goods, was accepted, and defendants 1 and 2 failed to substantiate any plea to the contrary. Furthermore, upon discovering the impugned transaction in the month of February, 2010, the plaintiff acted promptly by lodging a Police complaint and filing the civil suit.

8. It is also urged that the learned Single Judge, having accepted the flow of funds from the plaintiff, erred in restricting the relief of refund of Rs.52,60,000/-, with interest, being the consideration recited in the original sale

deed, without granting the substantive relief of cancellation and consequential re-conveyance. The inconsistencies in the defendants' version regarding the sale consideration, coupled with the absence of proof of independent means, are indicative of fraudulent transactions, which had not been properly appreciated. Hence, the impugned common judgment warrants interference by this Court.

9. Per contra, Mr.R.Thiagarajan, learned counsel for defendants 1 and 2, contended that the plaintiff, being a Malaysian citizen, was not legally authorised to remit funds for acquisition of immovable property in India, without prior permission from the Reserve Bank of India or under the Rules of the Malaysian Government to purchase the property in India. The alleged payment of 2,64,500 Malaysian Ringgits (equivalent to Rs.34,00,000/-) for purchasing the suit property, is unsupported by any reliable evidence and, in any event, cannot be recognised in law. The learned Single Judge, had rightly disbelieved the said claim.

10. It is further contended that, since the consideration, if any, was paid by the Company incorporated by the plaintiff under Exs.P3 and P4, which has not been impleaded as a party, the suit filed in the plaintiff's individual capacity,

is not maintainable. The payment of Rs.64,00,000/- under Ex.P3 - Application for remittance of money with May Bank, was stated to be paid to the fourth defendant, Malathy, towards purchase of goods and not towards purchase of the suit property. Hence, the finding of the learned Single Judge that defendants 1 and 2 are liable to pay Rs.52,60,000/- with interest to the plaintiff, is contrary to records.

11. The learned counsel for defendants 1 and 2 further argued that the registered sale deed conclusively evidences the transaction, and in view of the bar under Sections 91 and 92 of the Indian Evidence Act, 1872, oral evidence cannot be adduced to contradict the terms of the documentary evidence. In the present case, the recitals disclose payment of consideration by the first defendant, who, it was contended, had independent financial means, including the funds raised by pledging her jewels and also through borrowings from their close relatives and friends. Hence, the contrary finding of the learned Single Judge that defendants 1 and 2 had no independent source of funds towards consideration, is hereby assailed as erroneous.

12. The learned counsel further contended that, even assuming that the plaintiff had advanced certain amounts, the remedy would lie only in recovery of money and not seeking declaration of title. The omission to pursue relief against defendants 3 and 4 is also emphasized. Therefore, the learned counsel for defendants 1 and 2 prays that the plaintiff's suit ought to have been dismissed in its entirety. It is further urged that the defendant's suit merits a decree, and that the direction to refund a sum of Rs.52,60,000/- with interest, is liable to be set aside.

13. We have heard the learned counsel on either side and perused the materials available on record.

14. The specific case of the plaintiff is that the second defendant, who was in charge of the Chennai Branch of the plaintiff's Company as a Director, acted in a fiduciary capacity and was entrusted with funds for purchase of the suit property. According to the plaintiff, the entire sale consideration was paid by him, however, the second defendant, in breach of trust, caused the sale deed to be executed in favour of the first defendant, being his wife, which necessitated the plaintiff to file the suit for declaration and recovery of money.

15. Defendants 1 and 2, on the other hand, denied the said claim and contended that no amount was paid by the plaintiff towards purchase of the suit property. It is their specific case that the payments relied upon by the plaintiff, were in connection with business transaction of the said Company and that the suit property was purchased by the first defendant out of her own funds, raised through personal sources. As a counterblast filed the suit in C.S.No.593 of 2010.

16. The question that arises for consideration in these appeals, is as to whether the second defendant had purchased the suit property in the name of the first defendant out of sale consideration paid by the plaintiff, or whether the purchase was independently made by the first defendant, out of her own sources?

17. Upon consideration of the pleadings and the materials available on record, it is seen that the relationship between the parties, the role of the second defendant in managing the plaintiff's Company at Chennai, and the fact that the suit property was initially taken on lease for the use of the Company, are not in dispute. It is also an admitted position that the sale deed in respect of the suit property, stands in the name of the first defendant, having been executed by the

second defendant in his capacity as the Power of Attorney of the third defendant.

18. The principal issue that is raised in the present appeals, pertains to the source of the sale consideration. Insofar as the alleged cash payment of 2,64,500 Malaysian Ringgits (equivalent to Rs.34,00,000/-), said to have been made in Malaysia is concerned, the plaintiff has not adduced any independent evidence to substantiate the same, apart from the pleadings. However, it stands established from Exs.P3 to P5 and Ex.D37 that a sum of Rs.64,00,000/- was remitted to the fourth defendant in connection with the sale transaction, which fact has not been denied by defendants 3 and 4.

19. Admittedly, though the sale deed - Ex.P7 recites a consideration of Rs.52,60,000/-, it is well recognised that the consideration reflected in registered instrument does not, in all cases, represent the true and actual transaction value. It is not uncommon for parties to adopt the guideline value for the purpose of the document, particularly, with a view to reduce the incidence of stamp duty, without disclosing the actual market value. In the present case, having regard to the facts and circumstances and the documentary evidence available on record, the recitals in Ex.P7 cannot be taken as conclusive proof of

true consideration. The facts and circumstances and the evidence on record, justify an enquiry into the real nature of the transaction. In such circumstances, the bar under Sections 91 and 92 of the Indian Evidence Act, 1872, does not preclude the Court from examining the actual consideration and the true character of the transaction.

20. Further, the plea of defendants 1 and 2 that the suit property was purchased out their independent funds, is not supported by any cogent or reliable evidence. The claim of the defendants 1 and 2 that the sale consideration was moblised by pledging jewels and through borrowings, remains unsubstantiated and it does not inspire confidence. On the contrary, the circumstances, coupled with the documentary evidence, clearly indicate that the consideration for purchase of the suit property, substantially flowed from the plaintiff. However, the second defendant, who acted on behalf of the plaintiff, in a fiduciary capacity, had misused the position of trust by facilitating purchase of the suit property in the name of the first defendant, while acting as the Power of Attorney holder of the third defendant. Since the defendants 1 and 2 failed to prove they had sufficient funds, it is only logical to conclude that the plaintiff financed the entire consideration. Further, if the defendants 1 and 2 had, in fact,

possessed sufficient independent means to purchase the property, there was no necessity for the second defendant to intervene in the transaction as the Power of Attorney holder of the third defendant and to execute a sale deed in favour of the first defendant. The very structure of the transaction, casts serious doubt on the defence version and lends support to the case of the plaintiff.

21. This Court, as an Appellate Court while re-appreciation of the entire evidence on record, holds that the transaction in question is vitiated by breach of fiduciary obligation. The learned Single Judge, having rightly concluded that the sale consideration flowed from the plaintiff, was not justified in declining the consequential relief of setting aside the original sale deed dated 31.12.2009. Once it is established that the second defendant acted in a fiduciary capacity as an agent of the plaintiff and the sale consideration stood flown through the plaintiff, he is entitled to appropriate relief in law. The refusal of the learned Single Judge to grant such relief, despite the said findings, and the rejection of the monetary relief sought by the plaintiff are perverse.

22. In the result, the impugned common judgment and decree of the learned Single Judge dated 03.02.2017 made in C.S.Nos.247 of 2010 and 593 of 2010 is set aside. The suit in C.S.No.247 of 2010 is decreed partly to the extent of directing the first defendant to execute a sale deed in favour of the plaintiff in C.S.No.247 of 2010 and deliver vacant possession of the suit property. The other reliefs sought for in C.S.No.247 of 2010 are dismissed. The suit in C.S.No.593 of 2010 is entirely dismissed.

23. Accordingly, these Original Side Appeals are partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(P.V.,J.) (K.G.T.,J.)
01 / 06 / 2026

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Speaking / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

P.VELMURUGAN, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

ms/rns

Judgment in

O.S.A.Nos. 324 & 325 of 2017
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