



2026:CGHC:14144

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**FA No. 99 of 2019****Judgment reserved on 15/12/2025****Judgment delivered on 24/03/2026**

Smt. Chhaya Devi Agrawal W/o Shri Chhedilal Agrawal Aged About 48 Years
R/o Srinagar Road Gudhiyari, Raipur, Tahsil And District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

... Appellant**versus**

1 - Devashish Panda S/o Shri K.P. Panda, Aged About 38 Years R/o Quarter No. 1661, Khanij Nagar Post Ravigram, Vip Road (Wrongly Mentioned As Vrp Road) Raipur, Tahsil And District Raipur, Presently At Mascot (Arab Country), Through Power Of Attorney Holder Subrat Kar, S/o C.R. Kar, Aged About 41 Years R/o B-16,street 11, Ashish Nagar, West Rishali, 490006, District Durg Chhattisgarh., District : Durg, Chhattisgarh

2 - Registrar Cooperative Societies Vivekanand Nagar, Raipur Tahsil And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

3 - National Mineral Development Corporation Employees Society Limited Raipur Chhattisgarh Through Liquidation Rajkumar, Naidu, Aged About 52 Years R/o Pachpedi Naka Raipur Chhattisgarh., District : Raipur, Chhattisgarh

4 - Liquidation Rajkumar Naidu S/o Shri K.S. Naidu Aged About 52 Years R/o Panchpedi Naka, Raipur, National Mineral Development Corporation

Employees Cooperative Housing Society Limited Raipur Chhattisgarh.,
District : Raipur, Chhattisgarh

... **Respondents**

(Cause title taken from Case Information System)

For Appellant	:	Mr. B.P. Sharma and Ms. Nidhi Tiwari, Advocates
For Respondent No.1	:	Mr. Prafull N. Bharat, Senior Advocate along with Mr. Harshal Chouhan, Advocate
For other Respondents	:	None, though served.

Hon'ble Shri Justice Ravindra Kumar Agrawal

C.A.V. Judgment

1. The present first appeal under Section 96 of the Code of civil Procedure, 1908, has been filed by the Defendant No. 4, against the impugned judgment and decree dated 05-10-2018, passed by the learned 4th Additional Judge to the Court of First Additional District Judge, Raipur, District Raipur in Civil Suit No. 59-A/2013, whereby the suit filed by the plaintiff for declaration of title and permanent injunction is decreed in his favour, and the counter claim of the Defendant No. 4 for declaration of title and permanent injunction is dismissed.
2. For the sake of convenience, the status of the parties shown in the suit is being taken to refer to the respective parties in the present appeal.
3. The plaintiff instituted a Civil suit before the learned trial Court for the relief of declaration of title, declaration that the revocation deed dated 10-03-2011 and sale deed dated 10-03-2011 executed by the Defendant No. 3 in favour of Defendant No. 4 is not binding upon him, and permanent injunction over the suit property, i.e. the open and diverted land of residential plot No. 25, Khasara No. 332/1, 332/2 and

334, area 2400 Sqr. Ft. (60 x 40 ft.), situated at village Purena, P.H. No. 113, R.I. Circle Raipur, Tahsil and District Raipur, which is the property belonging to "Rashtriya Khanij Vikas Nigam Karmchari Sahakari Samiti" (in short "the Society"). It is pleaded by the plaintiff that the plaintiff has purchased the suit land through the registered sale deed dated 16-07-2001, from its owner, M.A. Appan, and came into possession thereof. He constructed the boundary wall and surrounded the suit land by wall and constructed a water tank also. The Defendant No. 2 was appointed as the Prescribed Authority of the said Society, vide order dated 20-01-2011. He sent a proposal for the liquidation of the property of the Society to the Deputy Registrar on 25-01-2011. On 28-01-2011, Defendant No. 3 was appointed as liquidator of the said Society. After his appointment as liquidator, the Defendant No. 3, on 10-03-2011, without there being any notice or intimation to the plaintiff, produced a revocation deed before the Sub-Registrar, Raipur, which was accepted for its registration and on the same day, a sale deed was executed in favour of the Defendant No. 4. The said sale deed is executed without there being any authority and void ab-initio and the Defendant No. 4 could not get any title by the said sale deed. Such a sale deed dated 10-03-2011 is not binding upon the plaintiff. He obtained a copy of the sale deed on 13-05-2011. He also came to know that the Board of Directors have also filed an appeal against the dissolution of the Society, before the Registrar, Co-operative Societies, Raipur, which is pending for its consideration. On 16-05-2011, the plaintiff served a legal notice under Section 94 of the Cooperative Societies Act, 1960 (hereinafter called as "the Act of

1960") and Section 80 of the C.P.C. through his counsel, and then filed the civil suit.

4. After service of summons, the Defendants Nos 2 and 3 have filed their written statement jointly, denied the pleading of the plaint and pleaded that the plot No. 25 was being allotted to the plaintiff as he was a member of the Society and he was well aware of the terms and conditions of allotment of the plot. After allotment of the plot, the plaintiff has to start construction within six months and complete it within three years. On 04-01-2011, a notice was issued to the plaintiff to start his construction within 21 days from the date of receipt of notice and to pay the development charges to the Society, failing which the allotment of the plot to him is liable to be cancelled. The plaintiff has not given any heed to the notice, and since the tenure of the earlier managing committee is over, the Deputy Registrar appointed another Prescribed Authority vide order dated 20-01-2011. On 25-01-2011, a report was submitted before the Deputy Registrar, Co-operative Societies, Raipur, for the liquidation of the Society, under Section 69 of the Act of 1960. On 28-01-2011, Defendant No. 3 was appointed as liquidator. In the meeting dated 01-02-2011, it was resolved that the allotment of those allottees of the plots should be cancelled who have not started construction yet. On 25-02-2011, the plaintiff was served with a notice and informed about the cancellation of the allotment of his plot. It is also pleaded that Clause 43(1) of the By-Laws of the society provided that if the allottees had not completed their construction within three years, their land should be vested with the Society. Under the said condition of the By-Laws, the allotment of

the land of the plaintiff was cancelled, and the deed was executed on 10-03-2011. The plot was sold by M. A. Appan after obtaining due permission from the Respondent No. 2. The conditions of the sale deed have not been challenged and are binding upon the plaintiff. The Defendant No. 3 has executed the sale deed in favour of Defendant No. 4, in accordance with the conditions of By-Laws, and the plaintiff has no right or title over the suit land. The plaintiff was served with a notice dated 04-01-2011 and then the notice dated 25-02-2011 with respect to the cancellation of allotment of the plot. The Defendant No. 4 is the title and possession holder of the suit land. The suit is undervalued, and no cause of action arose in favour of the plaintiff.

5. The Defendant No. 4 has also filed his written statement. He also denied the pleadings of the plaint with the averments that the plaintiff was not the title or possession holder of the suit land, and the boundary wall was also constructed by Defendant No. 4. The cancellation of allotment of the plot of the plaintiff is strictly in accordance with the By-Laws of the Society. After following the due procedure of cancellation of the plot, the same is allotted to Defendant No. 4, and the sale deed was executed on 10-03-2011. After the date of execution of the sale deed, i.e. 10-03-2011, the Defendant No. 4 would become the title and possession holder of the suit land, and his name is also recorded in the revenue records. The Defendant No. 4 also objected to the undervaluation of the suit and accrual of the cause of action.
6. The Defendant No. 4 filed her counter-claim also, for declaration of

title, declaration that the suit land has been allotted to the Defendant No. 4 under the conditions of the By-Laws of the Society for the construction of a house, which are binding upon the plaintiff, and also for permanent injunction. It is pleaded in the counter-claim that the Defendant No. 4 was a landless lady and she was allotted the suit land by the Society, under the existing By-Laws of the Society. She obtained membership of the Society under the terms and conditions of the By-Laws. Since the plaintiff had violated the terms and conditions, his allotment was cancelled, and the suit land was allotted to her. Therefore, she prayed for a declaration of title in her favour, and has filed the counter-claim.

7. The plaintiff filed the written statement of the counter-claim of Defendant No. 4 and denied her right over the suit land. In consonance with the pleading of his plaint, he filed his written statement. The By-Laws govern the management of the Society's internal affairs and cannot be given the force of law. The counter claim mainly consists of the procedure of execution of the sale deed by the Society, allotment of the plot and provisions of By-Laws. Paragraph 4 of the counterclaim is not in consonance with the relief sought therein. The Samiti has already executed a sale deed in favour of the plaintiff earlier, and it was executed by the Society under the existing By-Laws. The procedure adopted by the authorities for the cancellation of the allotment of the plot to the plaintiff is illegal and against the procedure prescribed for it. The Civil Court has the jurisdiction to cancel the registered sale deed, and the liquidator has no right or authority to do so. The sale deed executed in favour of the Defendant No. 4 is illegal

and void, and no right, title or possession can be transferred in her favour by the said deed. Defendant No. 4 cannot challenge the sale deed of the plaintiff. The Defendant No. 4 is not the title or possession holder of the suit land, but the plaintiff is the title and possession holder of the suit land. The Defendant No. 4 is not entitled to any relief, and her counter-claim is liable to be dismissed.

8. Based on the pleading of the parties, the learned trial court framed the following issues:-

“1. क्या वादी द्वारा प्रतिवादी कं0-2 राष्ट्रीय खनिज विकास निगम कर्मचारी सहकारी गृह निर्माण समिति मर्यादित में खुली परिवर्तित आवासीय भूमि खसरा नं0-332/1, 332/2 तथ 334 का भाग रकबा साईज 60 गुणित 40 बराबर 2400 वर्गफुट वाके मौजा पुरैना प०ह०नं० 113 रा०नि०म० रायपुर-1 तहसील व जिला रायपुर स्थित भूखंड क0-25 को श्री एम०ए० एप्पन से पंजीकृत विलेख दिनांक 16/07/2001 के तहत वादग्रस्त भूखण्ड के कय किये जाने के पश्चात प्रतिवादी क0-2 द्वारा अधिरोपित शर्तों का पालन नहीं किया गया?

2. क्या वादी द्वारा उक्त शर्तों का पालन न किये जाने के कारण प्रतिवादी क-2 वादग्रस्त भूखण्ड के आबंटन को निरस्त करने का अधिकारी था ?

3. क्या प्रतिवादी क०-३ द्वारा वादग्रस्त भूखंड का आबंटन के संबंध में निष्पादित निरस्तीकरण विलेख दिनांक 10/03/2011 विधिपूर्ण न होने से वादी पर बंधनकारी नहीं है ?

4. क्या प्रतिवादी कमांक-3 द्वारा प्रतिवादी क०-4 के पक्ष में

निष्पादित विक्रय इकरारनामा दिनांक 10/03/2011 वादी पर बंधनकारी नहीं है ?

5. क्या वादी प्रतिवादी क0-4 को वादग्रस्त भूखण्ड पर वादी के कब्जे में किसी भी रीति से अंतरित किये जाने की स्थायी निषेधाज्ञा प्राप्त करने का अधिकारी है ?

6. क्या वादी वादग्रस्त भूखण्ड की स्वामी घोषित किये जाने का अधिकारी है?

7. क्या वादी याचित अनुतोष प्राप्त करने का अधिकारी है?

8. सहायता व व्यय ?

अतिरिक्त वाद प्रश्न

9. क्या प्रतिवादी क्रमांक 2 द्वारा वादी के पक्ष में आबंटित वादग्रस्त भू-खण्ड को विधिवत निरस्त किया जाकर प्रतिवादी क्रमांक 4 को विधिवत आबंटित कर आधिपत्य सौंपा गया है?

10. क्या वर्तमान में उक्त वादग्रस्त भू-खण्ड पर प्रतिवादी "नहीं" क्रमांक 4 एक मात्र स्वत्व एवं आधिपत्य है?

11. प्रतिवादी क्रमांक 4 उक्त वादभूमि के संबंध में वादी के विरुद्ध स्थायी निषेधाज्ञा की सहायता प्राप्त करने का अधिकारी है?

12. क्या प्रतिवादी क्रमांक 4 द्वारा अपने प्रतिदावा का उचित मुल्यांकन कर पर्याप्त कोर्ट फीस चसपा किया गया है?"

9. The plaintiff Devashish Panda has examined himself as P.W. 1.

Although the affidavit in the form of examination in chief of Subrat Kar has been filed, the plaintiff has not put him for cross-examination. He relied upon the document Ex. P-1, which is a copy of the letter dated 09-08-2011 written by the liquidator to the Municipal Corporation, Ex. P-2 is the letter written by the members of the Samiti to the Municipal Corporation, Ex. P-2 (correct number would be Ex. P-3) is the legal notice dated 16-05-2011 sent by the plaintiff to the Registrar, Co-operative Societies, Raipur, Ex. P-3 and P-4 are the postal receipts, Ex. P-5 is the no-objection certificate dated 16-07-2001, Ex. P-8 is the amended order dated 16-09-2011 issued by the Joint Registrar, Co-operative Societies, Raipur, Ex. P-9 is the cancellation deed dated 10-03-2011.

10. The Defendant No. 4 examined her witness, Anil Agrawal, as D.W. 1. She relied upon the document Ex. D-1, which is a copy of the sale deed dated 03-03-1994, and the sale deed dated 10-03-2011, Ex. D-2 is a copy of the receipt of deposition of the diversion fee, Ex. D-3 is a copy of the no-objection certificate issued by the house construction cell of Municipal Corporation, Raipur.
11. After appreciation of the evidence produced by the parties and perusal of the pleading and hearing them, the learned trial court passed its judgment and decree on 05-10-2018 and decreed the suit of the plaintiff in his favour, declaring that he is the title and possession holder of the suit land, and the sale deed dated 04-03-2011 is void and not binding upon the plaintiff and also passed the decree of permanent injunction in his favour. The counter-claim of Defendant No. 4 has

been dismissed. Hence, this first appeal is filed by Defendant No. 4.

12. Learned counsel appearing for the appellant would submit that the impugned judgment and decree passed by the learned trial Court is contrary to the facts on record as well as settled principles of law governing conditional transfers of immovable property. It is an admitted position that the original sale deed executed by the Society in favour of its member, namely A.M. Appan, contained a specific and unequivocal condition in Clause 2 mandating that the allottee shall commence construction within six months from the date of execution of the sale deed and complete the same within a period of three years. The said clause further provided that in case of non-compliance, the Society shall have the right to cancel the allotment and resume the property after refunding the consideration amount with applicable interest. Such a stipulation clearly constitutes a condition subsequent within the meaning of Section 31 of the Transfer of Property Act, 1882, and is legally valid and enforceable. The plaintiff, having stepped into the shoes of the original allottee, was equally bound by these conditions. Admittedly, no construction was carried out within the stipulated period, resulting in cancellation under the By-Laws of the Society and terms of the sale deed. In these circumstances, the revocation deed dated 10-03-2011 and the consequential sale deed executed in favour of the appellant are lawful, valid, and binding, and the learned trial Court has erred in holding otherwise.
13. It is further submitted that the learned trial Court has failed to appreciate the statutory powers vested in the liquidator under Section

71 of the Act of 1960. Upon the Society going into liquidation, all its assets vested in the duly appointed liquidator, who was empowered not only to realize the assets but also to take all necessary steps for proper administration, including cancellation of irregular or non-compliant allotments and re-allotment of plots. In the present case, the liquidator/Defendant No. 3, after following due procedure, issued notices dated 04-01-2011 and 25-02-2011 to the plaintiff regarding non-compliance and cancellation of allotment. Thereafter, a registered deed of cancellation was executed and duly registered before the Sub-Registrar, Raipur, followed by execution of a registered sale deed in favour of the Defendant No. 4 upon receipt of valid consideration of Rs. 2,40,000/-. The entire process adopted is in consonance with the By-Laws of the Society and statutory provisions. Even assuming that the liquidator was subsequently removed, the acts performed by him during his tenure are fully protected under the de facto doctrine, as consistently upheld by the Hon'ble Supreme Court, and therefore cannot be invalidated in collateral civil proceedings between private parties.

14. Lastly, it is submitted that the appellant is a bona fide purchaser for value, who was validly allotted the suit property after lawful cancellation of the earlier allotment. The appellant has not only acquired a valid title through a registered instrument but has also been recorded in the revenue records as the title holder in possession. The learned trial Court, despite recording findings in favour of the appellant on Issue No. 1 and partly on Issue No. 2, has failed to draw the correct legal inference from such findings and has erroneously granted a

declaration and injunction in favour of the plaintiff. The Court below has overlooked that once the condition of the original grant stood violated, no subsisting right, title, or interest remained with the plaintiff. The findings regarding the invalidity of the sale deed dated 10-03-2011 are thus perverse and unsustainable in law. In view of the above submissions, it is prayed that this appeal may be allowed, set aside the impugned judgment and decree dated 05-10-2018, and decree the counter-claim of the Defendant No. 4 by declaring her as the lawful owner and in possession of the suit land along with consequential relief of permanent injunction.

15. He would rely upon the judgment of “**Gokaraju Rangaraju v. State of Andhra Pradesh**”, 1981 (3) SCC 132, “**Pushpa Devi M. Jatia v. M.L. Wadhawan, Additional Secretary, Govt. of India and Others**”, 1987 (3) SCC 367, “**Indu Kakkar v. Haryana State Industrial Development Corporation Ltd. and Another**” 1999 (2) SCC 37, “**Aman Semi-Conductors (Private) Limited v. Haryana State Industrial Development Corporation Limited and Another**”, 2023 (18) SCC 559, and “**The State of Telangana v. Sri Mangipet @ Mangipet Sarveshwar Reddy**”, Judgment dated 06-12-2019 passed in Criminal Appeal No. 1662/2019, by the Hon’ble Supreme Court.
16. On the other hand, learned Senior Advocate appearing for the Respondent No. 1/plaintiff submits that the impugned judgment and decree passed by the learned trial Court are well-reasoned, based on proper appreciation of evidence, and in consonance with the settled principles of law, and therefore call for no interference in the present

appeal. It is an admitted and proved fact on record that the plaintiff had purchased the suit property by a duly registered sale deed dated 16-07-2001 from its lawful owner M. A. Appan, and was placed in peaceful possession thereof. Pursuant to such lawful purchase, the plaintiff had also raised construction in the form of a boundary wall and water tank, thereby establishing his possession. Once an absolute sale deed was executed in favour of the plaintiff, complete right, title, and interest in the suit property stood transferred to him, and the Society ceased to have any subsisting right over the said property. Any subsequent unilateral act of cancellation of such registered sale deed, without recourse to a competent civil court, is ex facie illegal and void, and the learned trial Court has rightly held that the so-called revocation deed dated 10-03-2011 and the consequential sale deed executed in favour of Defendant No. 4 are not binding upon the plaintiff.

17. It is further submitted that the reliance placed by the appellant on the alleged conditional nature of the sale deed is wholly misconceived. The conditions, if any, incorporated in the sale deed or By-Laws of the Society cannot override the statutory mandate governing transfer of property. Once an absolute conveyance is executed, any condition restraining enjoyment or providing for automatic resumption is hit by the principles underlying Section 11 of the Transfer of Property Act. Even otherwise, such a drastic consequence of divesting a lawful owner of his title cannot be effected unilaterally by the Society or its liquidator. Under Section 31 of the Specific Relief Act, 1963, any cancellation or setting aside of a written instrument can only be

effected by a competent civil court. The liquidator has no adjudicatory power to declare a registered sale deed as cancelled or void. Therefore, the cancellation deed dated 10-03-2011, having been executed without jurisdiction and without authority of law, is a nullity and does not divest the plaintiff of his title.

18. It is further submitted that Defendant No. 4 has no independent right or title over the suit property, as she was never a valid member of the Society, which is a sine qua non for allotment of plots under the By-Laws of the Society. The alleged allotment in her favour is thus contrary to the very scheme and object of the Society and is void ab initio. Furthermore, Sections 69 and 71 of the Act of 1960, relied upon by the Defendant No. 4, do not empower the liquidator to cancel concluded and registered sale transactions. The powers of the liquidator are limited to realization and distribution of the assets of the Society and do not extend to the adjudication of title or annulment of vested rights of third parties. The liquidator merely steps into the shoes of the Society and cannot exercise powers greater than those available to the Society itself. Hence, the entire action of cancellation and sale is without jurisdiction. The plaintiff continues to be the lawful title holder and in possession of the suit property, and Defendant No. 4 has failed to establish any legal right in her favour. The provisions of Section 31 of the Specific Relief Act, 1963, have also not been followed. The findings recorded by the learned trial Court are based on cogent evidence and correct interpretation of law, and do not suffer from any perversity or illegality warranting interference by this Court.

19. It is further submitted that Defendant No. 4 has not examined herself before the Court to prove the averments made in her written statement/counter-claim. The witness, Anil Agrawal (D.W.1), who has been examined on her behalf, is neither her power of attorney holder nor an authorized person competent to depose on her behalf. The counter-claim filed by Defendant No. 4 is in the nature of a plaint, wherein she claims right, title, and interest over the suit land; therefore, it was incumbent upon her to step into the witness box to substantiate her claim. In the absence of her examination, an adverse inference ought to be drawn against her. This position of law has been clearly laid down by the Hon'ble Supreme Court in "**Vidhyadhar v. Manikrao & Anr.**", (1999) 3 SCC 573. Therefore, the judgment and decree passed by the learned trial court dismissing the counter-claim of Defendant No. 4 is fully justified, and the present appeal is liable to be dismissed.
20. I have heard learned counsel for the parties and perused the record of the trial Court and gone through the pleadings and evidence available in the case.
21. The question that arises for determination in the present appeal is whether the registered sale deed dated 16-07-2001 executed in favour of the plaintiff could have been unilaterally cancelled by the Society through its liquidator, and whether, on the strength of such cancellation, a valid title could have been conveyed to Defendant No. 4 by the subsequent sale deed dated 10-03-2011. The answer to this issue goes to the root of the matter, as the entire claim of Defendant

No. 4 rests upon the legality of the cancellation and the consequent transfer.

22. The plaintiff Devashish Panda (P.W.1) has deposed that he purchased the suit property, namely Plot No. B-25 admeasuring 2400 sq. ft. situated at village Purena, through a duly registered sale deed dated 16-07-2001 from M.A. Appan with the consent of the housing cooperative society. He has stated that since the date of purchase, he has been in continuous possession of the suit land and has exercised rights of ownership thereon. In support of his possession, he deposed that he got a boundary wall constructed around the plot and also constructed a water tank. He further stated that the society had provided him a water pipeline connection and that he has been paying charges in respect of such facilities. He relied upon documents, including the registered sale deed (Ex. P-1), no-objection certificate (Ex. P-5), membership receipt (Ex. P-6), and building permission granted by the Municipal Corporation (Ex. P-7), to substantiate his title and possession. In cross-examination, he stated that the copy of the sale deed executed in favour of Shri M. A. Appan is Ex. D-1, and that he had gone through and read over the contents of the said sale deed. He denied that he had not complied with Clauses 2, 3 and 4 of the sale deed Ex. D-1. He admitted that he has not started his construction over the suit land within 03 years of its allotment/sale deed, nor has obtained any permission from the concerned department. he further admitted that after the cancellation of his allotment of land, he moved his application for permission for construction. He already made an application for the sanction of the

map of the house, and in between he came to know about the execution of document Ex. P-9. He admitted that he constructed the boundary wall in the year 2001. He did not know that Chhaya Devi had mutated her name in the municipal records and had obtained permission for the construction of the house. Since Rajkumar Naidu has cancelled his allotment of plot and executed the cancellation deed without any notice to him, he served the notice Ex. P-2 upon him. He further admitted that on 09-08-2011, a letter was written by Rajkumar Naidu to the Municipal Zone Commissioner with respect to illegal construction over the plots. Thereafter, the Zone Commissioner withdrew the sanction of construction of the house. He denied receiving the amount of Rs. 1,85,000/- through the Cheque No. 689673, as mentioned in the document Ex. P-9. He also deposed about unawareness of the revocation deed of the allotment letter. He further denied that Defendant No. 4 is the owner and is in possession of the suit land.

23. The Defendant No. 4, Chhaya Devi Agrawal, herself has not been examined in the case. On her behalf, her witness Anil Agrawal, D.W. 1, has been examined. He deposed in his evidence that his sister is a member of the Samiti, having her membership No. 104. She has purchased the plot No. B-25, area 2400 Sqr. Ft. from the Samiti, for the total consideration of Rs. 2,40,000/- through the deed dated 10-03-2011. Earlier, a registered sale deed was executed in favour of M.A. Appan, on 13-03-1994, thereafter, he sold the land to the plaintiff after obtaining NOC from the Samiti, on 16-07-2001. The plaintiff Devashish Panda was bound by the By-Laws of the Samiti. He has not complied

with the conditions of the By-Laws of the Samiti, and therefore, the sale deed dated 16-07-2001 was cancelled by the cancellation deed dated 10-03-2011. Suppressing the cancellation of his sale deed, the plaintiff made his application before the Zone Commissioner, Municipal Corporation, Raipur, for the sanction of the map, which was approved on 19-04-2011. Thereafter, he made his objection before the Zone Commissioner on 09-08-2011 regarding the stopping of the illegal construction. After his objection, the sanction of construction was withdrawn on 11-01-2012. The plot No. B-25 was allotted to his sister, and a sale deed was executed in her favour and the possession of the same was handed over. She got her name mutated in the municipal and revenue records and obtained permission for the construction of the house on dated 15-09-2011. After the cancellation of allotment of the land to the plaintiff, the same was allotted to Defendant No. 4.

24. In cross-examination, he admitted that he is not the power of attorney holder of his sister Chhaya Devi. He himself has not filed written statement in the case. The counterclaim is also filed by her own signature. She is suffering from Kidney disease; therefore, she will not examine herself as the witness. He, neither a party to the deed Ex. D-1 nor a witness. There is no document filed by her that the Defendant No. 3 has handed over the possession of the land to Defendant No. 4. He also did not see the cancellation deed. He did not know about the cancellation deed and the sale deed, Ex. P-9 and D-1 were executed on the same day and at the same time, having their document numbers 197 and 198. He has not filed any document regarding possession. He voluntarily stated that they have constructed a

boundary wall there. Though it is not written in his affidavit, the affidavit contains information about the construction. There is no publication of a general notice in news-paper, and his sister has not verified from the relevant records. He did not know about the proceedings in the Samiti drawn by Defendant No. 3. He did not know about the document of the plaintiff.

25. It is an undisputed fact that the plaintiff acquired the suit land by way of a duly registered sale deed dated 16-07-2001. As per Section 54 of the Transfer of Property Act, 1882, a sale of an immovable property of the value of one hundred rupees and upwards can be made only by a registered instrument, and upon such execution, the ownership in the property stands transferred to the purchaser. Thus, once the sale deed was executed in favour of the plaintiff, complete right, title, and interest in the suit property stood vested in him, leaving no subsisting ownership with the Society except to the extent permissible under law.
26. The defendants have sought to justify the cancellation of the sale deed of the plaintiff on the ground that the original allotment and sale were subject to a condition requiring the start of construction within six months and completion within three years. Such a condition, even if proved, must be examined in light of the statutory provisions contained in the Transfer of Property Act, 1882. Under Section 10, any condition absolutely restraining the transferee from enjoying or disposing of the property is void, and Section 11 further provides that any direction restricting the mode of enjoyment of property, where the interest created is absolute, is also void. Though Section 31 recognizes

conditional transfers, the enforcement of such a condition subsequent cannot be effected unilaterally so as to divest a transferee of vested ownership rights without recourse to due process of law. The proper remedy, in such circumstances, would be to seek appropriate relief before a competent civil court, and not to resort to unilateral cancellation. It is relevant here to notice Section 10, 11 and 31 of the Transfer of Property Act, 1882, which are as under:-

“10. Condition restraining alienation.—Where property is transferred subject to a condition or limitation absolutely restraining the transfer or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him.

Provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

11. Restriction repugnant to interest created.
—Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him

in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction. Where any such direction has been made in respect of one piece of immovable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof.

31. Condition that transfer shall cease to have effect in case specified uncertain event happens or does not happen.—Subject to the provisions of section 12, on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.”

27. In the present case, the Society, acting through its liquidator, executed a cancellation deed dated 10-03-2011 without instituting any civil proceedings for cancellation of the earlier registered sale deed. This action, in the considered opinion of this Court, is wholly without jurisdiction. The law is well settled that a registered sale deed cannot be cancelled unilaterally by the vendor or any authority claiming under

him. Such cancellation must be effected only by a decree of a competent civil court under the provisions of the Specific Relief Act, 1963, particularly Sections 31 and 34 as has been held in the case of **“Thota Ganga Laxmi and another v. Government of Andhra Pradesh and Others”**, 2010 (15) SCC 207. Therefore, the cancellation deed dated 10-03-2011 is a nullity in the eyes of the law and does not have the effect of extinguishing the plaintiff's title.

28. The reliance placed by the defendants on the powers of the liquidator under Sections 69, 70, and 71 of the Chhattisgarh Cooperative Societies Act, 1960, also does not support their case. Section 69 provides for the winding up of a cooperative society, while Section 70 lays down the consequences of such winding up. Section 71 enumerates the powers of the liquidator, which include taking custody of the assets of the society, realizing its dues, and distributing the proceeds among the creditors and members. However, a careful reading of these provisions makes it evident that the powers conferred upon the liquidator are administrative and facilitative in nature. They do not include any adjudicatory authority to annul or cancel concluded and registered transactions of sale, nor do they empower the liquidator to divest third parties of vested property rights. The liquidator merely steps into the shoes of the Society and cannot exercise powers beyond those available to the Society itself.
29. In the case at hand, once the Society had already executed a registered sale deed in favour of the plaintiff, it ceased to have any ownership interest in the property, and consequently, the liquidator

could not have exercised any power to cancel such sale. Therefore, the cancellation deed executed by the liquidator is clearly beyond the scope of his statutory authority and is liable to be declared void.

30. It is relevant here to notice the conditions of the sale deed executed in favour of M. A. Appan and the plaintiff Devashish Panda. The conditions of the sale deed dated 03-03-1994, executed in favour of M. A. Appan is as under:-

“2. यह कि उक्त वर्णित विक्रय शुदा भूखण्ड/सम्पत्ति पर क्रेता सदस्य द्वारा केवल आवासीय प्रयोजन हेतु भवन का निर्माण किया जावेगा। क्रेता सदस्य को इस विक्रय पत्र निष्पादन पंजीयन दिनांक से 6 माह की अवधि के भीतर भवन निर्माण का कार्य प्रारम्भ करना आवश्यक होगा तथा प्रारम्भ किए गए भवन निर्माण के कार्य को तीन वर्ष की अवधि तक पूर्ण करने हेतु क्रेता सदस्य बाध्य होगा। यदि क्रेता सदस्य द्वारा उक्त वर्णित अनुसार तीन वर्ष के भीतर भवन का निर्माण नहीं किया जाता है, तब ऐसी दशा में संशोधित उपलब्धि की धारा 43 (एक) के तहत विक्रेता समिति उक्त वर्णित शुदा भूखण्ड/सम्पत्ति के आबंटन को निरस्त कर पंजीयन को निरस्त करवा सकेगा और क्रेता सदस्य द्वारा अदा की गई विक्रय प्रतिफल की राशि को पोस्ट ऑफिस के प्रचलित सेविंग ब्याज दर के मान से ब्याज सहित बैंक ड्राफ्ट के माध्यम से वापस कर दिया जावेगा। और इस प्रकार से ऐसी भूखण्ड विक्रेता समिति की पुनः सम्पत्ति हो जावेगी।

3. यह कि क्रेता सदस्य किन्हीं विशेष परिस्थितियों में उक्त वर्णित निर्धारित अवधि में निर्माण प्रारम्भ कर तीन वर्ष के भीतर निर्माण

की कार्यवाही पूर्ण नहीं कराता है तब ऐसी दशा में क्रेता सदस्य द्वारा लिखित आवेदन पर विक्रेता समिति के प्रबन्ध समिति द्वारा दो बार निर्धारित अवधि में वृद्धि की जा सकेगी। उक्त वृद्धि किसी भी दशा में दो वर्ष से अधिक की नहीं होगी। अर्थात् विक्रेता समिति की प्रबन्ध समिति को कुल दो वर्ष तक की अवधि में वृद्धि का अधिकार है।

4. यह कि उक्त वर्णित की गई अवधि वृद्धि के बावजूद अवधि वृद्धि के पश्चात निर्धारित अवधि में भवन निर्माण का कार्य पूर्ण नहीं किया जाता है, तब ऐसी दशा में विक्रेता समिति क्रेता सदस्य को उसके द्वारा अदा की गई विक्रय प्रतिफल की राशि उक्त वर्णित ब्याज सहित बैंक ड्राफ्ट/बैंकर्स चेक के माध्यम से वापस करेगी।

5. यह कि क्रेता सदस्य द्वारा भवन निर्माण के पूर्व उसके द्वारा प्रस्तावित भवन के मानचित्र के सम्बन्ध में विक्रेता समिति से स्वीकृति प्राप्त कर निर्माण कार्य प्रारम्भ करेगा। भवन निर्माण हेतु विक्रेता समिति द्वारा निर्धारित नियम क्रेता सदस्य पर बन्धनकारी होगा तथा उसी के अनुसार ही उसके द्वारा भवन का निर्माण किया जावेगा। अलावा इसके भवन निर्माण के संबंध में क्रेता सदस्य पर नगर निवेश अधिनियम, 1972 व पंचायत राज अधिनियम, 1979 के प्रावधान लागू होंगे।

6. यह कि कार्नर भूखण्ड के आबंटन व विक्रय पत्र निष्पादन की दशा में क्रेता सदस्य को अपनी भूमि में से यातायात सुविधा हेतु की जगह छोड़नी होगी।

7. यह कि विक्रय शुदा भूखण्ड/सम्पत्ति पर निर्मित भवन का उपयोग क्रेता सदस्य द्वारा स्वयं के आवास के लिए किया जावेगा कदाचित क्रेता सदस्य द्वारा क्रय शुदा भूखण्ड/सम्पत्ति पर बने भवन को किराये पर दिया जाता है, तब ऐसी दशा में क्रेता सदस्य को विक्रेता समिति से लिखित अनुमति लेना आवश्यक होगा। अलावा उसके दी गई अनुमति में वर्णित समस्त निर्देश क्रेता सदस्य पर बन्धनकारी होगा।

8. यह कि क्रेता सदस्य यदि भवन निर्माण हेतु ऋण लेना चाहे तब ऐसी दशा में ऋण हेतु आवेदन किसी शासकीय, अर्धशासकीय, सहकारी संस्था मर्यादित कम्पनी से विक्रेता समिति के माध्यम से आवेदन प्रेषित कर ऋण प्राप्त कर सकेगा। ऋण हेतु भूखण्ड/सम्पत्ति एवं उस पर निर्मित भवन उपरोक्त शासकीय अर्धशासकीय व सहकारी संस्था या मर्यादित कम्पनी के पास बन्धन रखा जा सकता है।

9. यह कि क्रेता सदस्य द्वारा विक्रय शुदा भूखण्ड/सम्पत्ति अथवा उस पर बने मकान को किसी अन्य को विक्रय करना चाहे तो विक्रय बाबत प्रस्तावित विक्रय मूल्य की लिखित सूचना विक्रय पत्र निष्पादन दिनांक से 45 दिन पूर्व लिखित में विक्रेता समिति को दिया जाना अनिवार्य होगा। सूचना मिलने के पश्चात उक्त वर्णित अवधि के भीतर विक्रेता समिति यदि चाहे तो प्रस्तावित विक्रय मूल्य की राशि अदा कर विक्रय शुदा सम्पत्ति/भूखण्ड अथवा उस पर बने मकान को पुनः क्रय कर सकती है। इस प्रकार उक्त 45 दिनों की अवधि में विक्रेता समिति अपने अग्रक्रय अधिकार का उपयोग नहीं करती है तब ऐसी दशा में क्रेता सदस्य

अपने प्रस्तावित क्रेता को विक्रय शुदा भूखण्ड/सम्पत्ति अथवा उस पर बने मकान को विक्रय करने हेतु स्वतन्त्र होगा। लेकिन प्रस्तावित क्रेता को सर्वप्रथम विक्रेता समिति का सदस्य बनना आवश्यक होगा। सदस्यता प्राप्त करने के पश्चात प्रस्तावित क्रेता को विक्रय मूल्य (विक्रय प्रतिफल) की राशि का पांच प्रतिशत सम्मति शुल्क के रूप में विक्रेता समिति को अदा करेगा।

10. यह कि बिना विक्रेता समिति के सदस्य बने यदि प्रस्तावित क्रेता को इस विक्रय विलेख में वर्णित क्रेता सदस्य द्वारा विक्रय शुदा भूखण्ड/सम्पत्ति अथवा उस पर बने मकान को विक्रय किया जाता है, ऐसी दशा में किया गया विक्रय अवैध माना जावेगा और इस विलेख में वर्णित क्रेता सदस्य की सदस्यता विक्रेता समिति से समाप्त कर दी जावेगी व उपरोक्त वर्णित अनुसार रकम की अदायगी कर विक्रय शुदा भूखण्ड/सम्पत्ति का कब्जा विक्रेता समिति द्वारा प्राप्त कर लिया जावेगा।

11. यह कि विक्रेता समिति के सम्पूर्ण आवासीय क्षेत्र में मवेशियों व भारी वाहनों का संचय या संग्रह व प्रवेश वर्जित है: क्रेता सदस्य या उसके किसी किरायेदार द्वारा विक्रयशुदा भूखण्ड/संपत्ति के किसी भाग या उस पर बने मकान में व उसके किसी भाग में डेयरी फार्म इत्यादि नहीं खोल सकेंगे। वहीं भारी वाहनों के लिए भी गैरेज इत्यादि का निर्माण नहीं किया जा सकेगा।

12. यह कि क्रेता सदस्य द्वारा निर्मित भवन में किसी भी प्रकार की परिवर्तन की दशा में, परिवर्तन के पूर्व प्रस्तावित परिवर्तन के संबंध में अनुमति विक्रेता समिति से लिया जाना आवश्यक होगा।

13. यह कि विक्रेता समिति के द्वारा अपनी आवासीय योजना के तहत उसके द्वारा क्रय की गई भूमि को कृषि प्रयोजन से भिन्न प्रयोजन हेतु (आवासीय प्रयोजन) परिवर्तन कराया गया विक्रय शुदा भूखण्ड/संपत्ति की परिवर्तित लगान की अदायगी की जिम्मेदारी क्रेता सदस्य की होगी।

14. यह कि विक्रेता समिति के द्वारा सार्वजनिक हित एवं सार्वजनिक उपयोग हेतु सड़क, भवन, बिजली, पेयजल, सुरक्षा या किसी अन्य मद पर किए गए व्यय को समान रूप से इस क्रेता सदस्य सहित अन्य क्रेता सदस्यों द्वारा वहन किया जावेगा तथा प्रतिवर्ष भुगतान इस क्रेता सहित अन्य क्रेता सदस्यों द्वारा विक्रेता समिति को अदा किया जावेगी, जिसकी रसीद विक्रेता समिति द्वारा प्रदान की जावेगी।

15. यह कि क्रेता सदस्य द्वारा इस विक्रय विलेख में वर्णित उक्त शर्तों में से किसी भी शर्त या शर्तों के उल्लंघन की दशा में क्रेता सदस्य के पक्ष में किए गए आबंटन एवं विक्रय पत्र निष्पादन व पंजीयन को रद्द कराने का अधिकार विक्रेता समिति को होगा।

16. यह कि उक्त शर्तों के अतिरिक्त क्रेता सदस्य एवं उसके हस्तांतरित अनुक्रम पर वे समस्त नियम लागू होंगे जो कि समिति व तत्समय प्रभावशील विधि के अन्तर्गत निर्धारित किए गए हों। इसी तरह विक्रेता समिति के उपनियम में निर्दिष्ट नियम एवं समय-समय पर समिति की कार्यकारिणी व प्रबंध समिति के निर्णय का पालन भी क्रेता सदस्य को करना होगा। किसी भी शर्त या निर्णय के उल्लंघन की दशा में क्रेता सदस्य के आबंटन को रद्द करने का

अधिकार व उस पर समुचित निर्णय लेने का अधिकार विक्रेता समिति को होगा।

उपरोक्त सभी तथ्यों एवं शर्तों को पढ़कर, समझ कर, सही पाकर इसमें लिखे सभी बातों को स्वीकार कर स्वस्थ चित्त से क्रेता सदस्य के पक्ष में इस विक्रय विलेख का निष्पादन मेरे द्वारा मुकाम रायपुर में दो गवाहों के समक्ष हस्ताक्षर कर निष्पादित किया गया, ताकि प्रमाण रहे एवं आवश्यकता पड़ने पर काम आवे।”

31. The relevant part of the contents of the sale deed dated 16-07-2001 executed in favour of the plaintiff Devashish Panda is as under:-

“यह कि उपरोक्त भूमि को पूर्व में मैंने राष्ट्रीय खनिज विकास निगम कर्मचारी सहकारी गृह निर्माण समिति रायपुर म.प्र. (मध्य प्रदेश सहकारी समिति अधिनियम 1960 के अन्तर्गत पंजीयन क्रमांक आर.पी.आर./140/90-91 में एक पंजीकृत सहकारी समिति प्रधान कार्यालय कोमाखान हाऊस सिविल लाईन रायपुर तह. व जिला रायपुर द्वारा अध्यक्ष बी.आर. गुप्ता आत्मज श्री एन.आर. गुप्ता पता एन.एम.डी.सी. कोमाखान हाऊस, सिविल लाईन रायपुर म.प्र.) से क्रय किया था। जोकि मेरे पक्ष में प्रबन्ध कार्यकारिणी की बैठक दिनांक 28.2.94 को संचालक मंडल द्वारा सर्वसम्मति से लिये गये निर्णयानुसार उक्त भूमि को मेरे पक्ष में रजिस्ट्री हेतु स्वीकृति प्रदान की गई थी। एवं मेरे पक्ष में दिनांक 3 मार्च 1994 को पुस्तक क्रमांक-अ-1 ग्रन्थ क्रमांक-17554 पृष्ठ 1+7 क्रमांक- 11287 देकर पंजीकृत किया गया था।

चूंकि उक्त भूमि के मालिक होने के नाते मैं उक्त जमीन को बिक्री करने का अधिकार रखता हूं, अतः आज दिनांक को मुझे घरेलू कार्य हेतु नगद रकम की जरूरत पड़ने के कारण पृष्ठ एक में दर्शाये गये क्रेता:- देबाशीष पाण्डा के पास उक्त जमीन विक्रय कर सौदे की पूरी राशि प्राप्त कर संबंधित विभाग से एन.ओ.सी. प्राप्त कर उसके पक्ष में रजिस्टर्ड बैयनामा कर रहा हूं।”

32. From perusal of the sale deed Ex. D-1, it transpires that there was a condition that the purchaser M. A. Appan shall start construction within 06 months and should complete within 03 years, yet he had not started construction within the stipulated period, and his allotment was not cancelled nor was any notice issued to him. Despite having knowledge of the said fact, he was granted no objection to sell the land to the plaintiff and the land was sold to him on 16-07-2001 through the registered sale deed. There was no such condition in the sale deed of the plaintiff, though he too was bound by the By-Laws of the Society.
33. Another important aspect that renders the defendants' case doubtful is that the cancellation deed and the subsequent sale deed in favour of Defendant No. 4 were executed on the very same day, i.e., 10-03-2011. Clause 9 of the contents of the sale deed dated 10-03-2011 (Ex. D-1), executed in favour of the Defendant No. 4 is also relevant to be reproduced here, which is as under:-

“9. यह कि क्रेता सदस्य द्वारा विक्रय शुदा भूखण्ड/संपत्ति अथवा

उस पर बने मकान को किसी अन्य को विक्रय करना चाहे तो विक्रय बाबत् प्रस्तावित विक्रय मूल्य की लिखित सूचना विक्रय पत्र निष्पादन दिनांक से 45 दिन पूर्व लिखित में विक्रेता समिति को दिया जा अनिवार्य होगा। सूचना मिलने के पश्चात उक्त वर्णित अवधि के भीतर विक्रेता समिति चाहे तो प्रस्तावित विक्रय मूल्य की राशि अदा कर विक्रय शुदा संपत्ति/भूखण्ड अथवा उस पर बने मकान को पुनः क्रय कर सकती है। इस प्रकार उक्त 45 दिनों की अवधि में विक्रेता समिति अपने अग्रकया अधिकार का उपयोग नहीं करती है तब ऐसी दशा में क्रेता सदस्य अपने प्रस्तावित क्रेता को विक्रयशुदा भूखण्ड/संपत्ति अथवा उस पर बने मकान को विक्रय करने हेतु स्वतंत्र होगा। लेकिन प्रस्तावित क्रेता को सर्वप्रथम विक्रेता समिति का सदस्य बनना आवश्यक होगा। सदस्यता प्राप्त करने के पश्चात प्रस्तावित क्रेता को विक्रय मूल्य (विक्रय प्रतिफल) की राशि का पांच प्रतिशत सम्मति शुल्क के रूप में विक्रेता समिति को अदा करेगा।”

34. Clause 9 of the sale deed Ex. D-1 clearly stipulates that the proposed purchaser should be a member of the Society and such a member should have deposited 5% of the total consideration of the sale to the Society. There is no evidence on record produced by Defendant No. 4 that she has deposited the said amount with the Society. It is undisputed that on the same day, i.e. on 10-03-2011, the cancellation deed of the allotment of the land to the plaintiff and the sale deed in favour of Defendant No. 4 was executed. Further Clause 2 of the contents of the sale deed Ex. D-1 provides that if the purchaser/allottee does not complete his construction over the allotted

land within 03 years, the Society have a right to cancel the allotment of the land, and the sale consideration is to be refunded along with the prevailing bank rate of interest. There is no evidence on record that the said amount was refunded to the plaintiff, except the endorsement in the cancellation deed dated 10-03-2011 (Ex. P-9) that the amount is refunded along with the interest through the cheque. Whether the said amount was actually received by the plaintiff or not has not been proved.

35. The other submissions of Defendant No. 4, founded on the de facto doctrine is required to be examined in the backdrop of the nature of powers exercised by the liquidator and the character of the impugned acts. The doctrine, as authoritatively explained by the Hon'ble Supreme Court in "**Gokaraju Rangaraju v. State of Andhra Pradesh**" 1981 (3) SCC 132, validates acts of an officer who is in de facto possession of an office under colour of lawful authority, so as to protect third parties and ensure continuity in administration. However, the Court has clearly circumscribed the doctrine by holding that such protection is available only in respect of acts done within the apparent scope of authority of the office and not to acts which are wholly without jurisdiction. The de facto doctrine cannot be invoked where the officer has no authority at all to act in the matter; it applies only to acts done within the scope of the office and not to acts which are wholly outside the jurisdiction of such office. Thus, while irregularity in appointment may be cured, absence of power cannot be.
36. In the present case, even if it is assumed that Defendant No. 3

continued to act as a de facto liquidator despite subsequent change or irregularity in his appointment, the crucial issue is whether the acts performed by him fall within the lawful ambit of powers of a liquidator. Under Sections 69 to 71 of the Chhattisgarh Cooperative Societies Act, 1960, the role of a liquidator is essentially administrative, taking custody of the assets of the society, realizing its dues, settling claims, and distributing the proceeds. The liquidator merely steps into the shoes of the society and cannot exercise powers superior to or independent of it. Neither the society nor the liquidator is vested with adjudicatory authority to cancel a concluded and registered sale deed or to divest a purchaser of vested title without recourse to a competent civil court. Therefore, the act of executing a unilateral cancellation deed dated 10-03-2011, followed by a fresh sale in favour of Defendant No. 4, is clearly beyond the statutory powers of liquidation.

37. In light of the facts of the present case, the reliance placed by the appellant on the de facto doctrine is wholly misplaced. As held by the Hon'ble Supreme Court in "**Aman Semi-conductors Pvt. Ltd. v. Haryana State Industrial Development Corporation Ltd.**" 2023 (18) SCC 559, the doctrine is intended to protect acts performed by an authority under the colour of lawful office so as to safeguard third-party interests and ensure continuity in administration; however, it cannot be invoked to validate actions which are inherently without jurisdiction or which result in deprivation of vested rights without authority of law. In the present case, even if the liquidator is assumed to have acted as a de facto authority, the act of unilaterally cancelling a duly registered sale deed of the plaintiff and executing a fresh sale deed in favour of

Defendant No. 4 is not an act within the permissible scope of powers of a liquidator under the Chhattisgarh Cooperative Societies Act, 1960. Such cancellation directly affects vested proprietary rights and could only have been undertaken through a competent civil court. Therefore, the impugned cancellation deed dated 10-03-2011, being an act wholly without jurisdiction, cannot derive any protection under the de facto doctrine, and the subsequent sale in favour of Defendant No. 4, being founded on such void action, does not confer any valid title upon her. The Court has emphasized that the de facto doctrine is not a panacea to cure jurisdictional defects, and cannot be extended to actions which have the effect of extinguishing substantive rights without authority of law. The distinction between acts done in irregular exercise of lawful authority and acts done in complete absence of authority has been clearly maintained, and only the former can be protected.

38. Applying the aforesaid principles to the facts of the present case, this Court finds that the cancellation of the plaintiff's registered sale deed was not an act done in mere irregular exercise of power but was a substantive act wholly without jurisdiction. The subsequent change in the office of the liquidator does not validate such an action, nor can the de facto doctrine be pressed into service to confer legality upon it. Since the liquidator lacked inherent authority to annul the plaintiff's vested title, the cancellation deed and the consequential sale deed in favour of Defendant No. 4 remain void and non est in the eyes of the law. Accordingly, the plea of the appellant based on the de facto doctrine is liable to be rejected.

39. Furthermore, Defendant No. 4 has not entered the witness box to substantiate her claim. Her case rests upon the testimony of D.W.1, who has, in his cross-examination, admitted that he is neither a power of attorney holder nor a party to the relevant documents and lacks personal knowledge of the material facts. The law is well settled that where a party fails to step into the witness box to depose in support of its case, an adverse inference is liable to be drawn against such party. This omission on the part of Defendant No. 4 significantly weakens her counter-claim and renders her assertions unproved. In the case of **Vidyadhar v. Manikrao**, AIR 1999 SC 1441, the Hon'ble Supreme Court has held that:-

“16. Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct as has been held in a series of decisions passed by various High Courts and the Privy Council beginning from the decision in [Sardar Gurbakhsh Singh v. Gurdial Singh and Anr.](#). This was followed by the Lahore High Court in *Kirpa Singh v. Ajaipal Singh and Ors.* AIR (1930) Lahore 1 and the Bombay High Court in [Martand Pandharinath Chaudhari v. Radhabai Krishnarao Deshmukh](#) AIR (1931) Bombay 97. The Madhya Pradesh High Court in [Gulla Kharagjit Carpenter v. Narsingh](#)

[Nandkishore Rawat](#) also followed the Privy Council decision in [Sardar Gurbakhsh Singh's](#) case (supra). The Allahabad High Court in [Arjun Singh v. Virender Nath and Anr.](#) held that if a party abstains from entering the witness box, it would give rise to an inference adverse against him. Similarly, a Division Bench of the Punjab & Haryana High Court in [Bhagwan Dass v. Bhishan Chand and Ors.](#), drew a presumption under [Section 114](#) of the Evidence Act against a party who did not enter into the witness box.”

40. The plea of Defendant No. 4 that she is a bona fide purchaser also does not merit acceptance. It is a settled principle of law that a transferee cannot acquire a better title than that of the transferor. Since the Society, through its liquidator, had no authority to cancel the earlier sale deed and had no subsisting title in the property, it could not have conveyed any valid title to Defendant No. 4. The subsequent entries in revenue or municipal records, even if made, do not confer title and are only for fiscal purposes.
41. In view of the aforesaid consideration, this Court is of the considered opinion that the learned trial Court has rightly considered the evidence available on record and law applicable to it and has decreed the suit of the plaintiff and dismissed the counter-claim of Defendant No. 4. The findings recorded by it do not suffer from any illegality or perversity warranting interference by this Court. Accordingly, the judgment and

decree passed by the learned trial Court deserve to be affirmed, and the present appeal, being devoid of merit, is liable to be dismissed.

42. Accordingly, the appeal filed by the appellant/Defendant No. 4 is **dismissed**.

43. Parties to bear their own costs.

44. An appellate decree be drawn accordingly.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved

HEAD NOTE

The de facto doctrine cannot be invoked to validate acts which are wholly without jurisdiction, and therefore, a unilateral cancellation of a registered sale deed by a liquidator, being beyond statutory authority, remains void and incapable of conferring valid title through any subsequent transfer.