2025:CGHC:61965

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

PAWAN KUMAR JHA
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Date: 2025.12.22 15:12:33 +0530

Judgment Reserved on: 25.09.2025

Judgment Pronounced on: 22.12.2025

Judgment Uploaded on: 22.12.2025

FA No. 6 of 2018

- Smt. Lalita Dixsena W/o Shri Om Prakash Dixsena Aged About 50 Years R/o Nawagaon, Katghora, Ward No. 5, Tahsil-Katghora, District-Korba, Chhattisgarh

--- **Appellant/ Defendant**

versus

1. Madhya Pradesh Shaskiya Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Through- Shri C. K. Hela Presidents/ Founder Member R/o- Near Mission School, Rajendra Nagar, Tahsil And District Bilaspur, Chhattisgarh .....**Plaintiff**
2. S. P. R. Sharma Co-Operative Extension Officer S/o Shri S. B. Sharma Aged About 63 Years R/o Nature City, Sakri Mungeli Road, Tahsil And District-Bilaspur Chhattisgarh Office Co-Operative Extension Officer Government In-Charge Chhattisgarh Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur Chhattisgarh Sanyukt Panjiyan Karyalaya, Bilaspur Chhattisgarh , District : Bilaspur, Chhattisgarh
3. Shri R. D. Dhrutlahre, Senior Co-Operative Inspector And Government In-Charge/ President Chhattisgarh Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur Chhattisgarh, Joint Registrar Office, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
4. The Joint Registrar Co-Operative Societies, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
5. State Of Chhattisgarh Through-Collector, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

--- **Respondents**

With

FA No. 572 of 2017

- G. Prasad S/o Late Shri Vasudevan, Aged About 75 Years R/o Uslapur, Police Station Chakarbhata, Tehsil Takhatpur, District Bilaspur, Chhattisgarh

---**Appellant/Defendant No.1**

Versus

1. Madhya Pradesh Shaskiya Karmchari Grih Nirman Sahkari Samiti Maryadit Bilaspur Chhattisgarh Through C K Hella, President/ Founder Member R/o Near Mission School Rajendra Nagar Tehsil And District Bilaspur, Chhattisgarh
2. S P R Sharma Cooperative Extension Officer S/o Late Shri S.B.Sharma R/o Nature City, Sakri, Mungeli Ry Road, Tehsil And District Bilaspur Office Of Cooperative Extension Officer, Shaskiya Prabhari Chhattisgarh Karmchari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Sanyukt Panajiyan Karyaya, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Shri R.D.Dhritlahre, Senior Cooperative Inspector And In Charge Government Officer/ President Chhattisgarh Karmchari Gruih Nirman Sahkari Samiti Maryadit, Bilaspur Address Office Of Joint Registrar Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Joint Registrar, Cooperative Societies, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. State Of Chhattisgarh, Through Collector, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

--- Respondents

With

FA No. 14 of 2018

- Smt. Tarkeshwari Kela W/o Ravichandra Kumar Kela, Aged About 46 Years R/o One 75 Nature City, Uslapur, Tahsil Takhatpur, District Bilaspur, Chhattisgarh

---Appellant /Defendant

Versus

1. Madhya Pradesh Shaskiya Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Through Shri C.K.Hela Presidents/ Founder Member R/o Near Mission School Rajendra Nagar Tahsil And District Bilaspur, Chhattisgarh .....**Plaintiff**
2. S.P.R.Sharma Co-Operative Extension Officer S/o Late Shri S.B.Sharma, Aged About 63 Years, R/o Nature City, Sakri Mungeli Road, Tahsil And District Bilaspur, Chhattisgarh, Office Co-Operative Extension Officer Government In-Charge C.G. Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Sanyukt Panjiyan Karyalaya, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Shri R.D.Dhrutlahre, Senior Co-Operative Inspector And Government In-Charge/ President C.G.Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Joint Registrar Office Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. The Joint Registrar, Co-Operative Societies, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. State Of Chhattisgarh, Through Collector Bilaspur, Chhattisgarh

--- Respondents/Defendants

With

FA No. 15 of 2018

- Smt. Vijay Laxmi Kela W/o Shri Surendra Kumar Kela, Aged About 32 Years R/o House No.181, Village Sarwani, Tahsil Kharsiya, District Raigarh, Chhattisgarh

---Appellant / Defendant

Versus

1. Madhya Pradesh Shaskiya Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Through Shri C.K.Hela Presidents/ Founder Member R/o Near Mission School Rajendra Nagar Tahsil And District Bilaspur, Chhattisgarh .....**Plaintiff**
2. S.P.R.Sharma Co-Operative Extension Officer S/o Late Shri S.B.Sharma, Aged About 63 Years, R/o Nature City, Sakri Mungeli Road, Tahsil And District Bilaspur, Chhattisgarh, Office Co-Operative Extension Officer Government In-Charge C.G. Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Sanyukt Panjiyan Karyalaya, Bilaspur, Chhattisgarh.
3. Shri R.D.Dhrutlahre, Senior Co-Operative Inspector And Government In-Charge/ President C.G.Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Joint Registrar Office Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. The Joint Registrar, Co-Operative Societies, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. State Of Chhattisgarh, Through Collector Bilaspur, Chhattisgarh

--- Respondents

with

FA No. 16 of 2018

- Smt. Sujata Samual W/o N.R.Samual, Aged About 50 Years R/o Tilak Ward, Mission Boarding Compound, Mungeli, Tahsil And District Mungeli, Chhattisgarh .....**Defendant**

---Appellant

Versus

1. Madhya Pradesh Shaskiya Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Through Shri C.K.Hela Presidents/ Founder Member R/o Near Mission School Rajendra Nagar Tahsil And District Bilaspur, Chhattisgarh .....**Plaintiff**
2. S.P.R.Sharma Co-Operative Extension Officer S/o Late Shri S.B.Sharma, Aged About 63 Years, R/o Nature City, Sakri Mungeli Road, Tahsil And

District Bilaspur, Chhattisgarh, Office Co-Operative Extension Officer Government In-Charge C.G. Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Sanyukt Panjiyan Karyalaya, Bilaspur, Chhattisgarh

3. Shri R.D.Dhrutlahre, Senior Co-Operative Inspector And Government In-Charge/ President C.G.Karmachari Gruh Nirman Sahkari Samiti Maryadit, Bilaspur, Chhattisgarh, Joint Registrar Office Bilaspur, Chhattisgarh.
4. The Joint Registrar, Co-Operative Societies, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. State Of Chhattisgarh, Through Collector Bilaspur, Chhattisgarh

--- Respondents

For Appellants	:	Mr. Vaibhav A. Goverdhan, Advocate and Mr. Gyan Prakash Shukla, Advocate
For Respondents	:	Mr. Ravindra Sharma, Advocate, Mr. Kishan Sahu, Dy. Govt. Advocate, Mr. A.N. Pandey, Advocate

Hon'ble Shri Parth Prateem Sahu

Order on Board

25/09/2025

1. As learned counsel for appellants have raised common grounds for consideration of this Court in all the appeals with regard to locus standi of plaintiff to file civil suit and therefore all the appeals are being heard together and decided by this common judgment.
2. These first appeals under Section 96 CPC have been filed assailing the judgments and decrees dated 31.10.2017 passed by learned 1st Additional District Judge, Bilaspur, District Bilaspur (CG) in Civil Suit Nos. 8A/2011, 9A/11, 5A/2011, 7A/2011, 6A/2011 by which the trial Court has allowed the suits filed by the plaintiffs by impugned judgments and decrees.
3. Common facts of the case, in brief, as projected by the plaintiff in plaints are that:

(a) The plaintiff organizations in all these connected appeals are registered cooperative housing societies established for the purpose of developing land and allotting residential plots to government employees. The elected Board

of Directors of these societies were dissolved by the competent authority ie., Defendant No. 5 under Section 53(13) of the Madhya Pradesh (now Chhattisgarh) Cooperative Societies Act, 1960 (for short “Act of 1960”), vide order dated 28.02.2009 and Defendants Nos. 2 and 3 were appointed as in-charge officers to manage the affairs of the societies till the election of new Board of Directors, in accordance with the provisions of the said Act.

(b) It is grievance of the plaintiffs that Defendants Nos. 2 and 3, while functioning as in-charge officers, acted beyond their authority and illegally added new members to the societies in violation of the order dated 20–21.09.2005 issued by the Registrar, Cooperative Societies, Chhattisgarh, Raipur, which specifically restrained the in-charge officers from enrolling new members and from purchasing or selling plots of land. Despite this prohibition, Defendants No. 2 and 3 executed sale deeds in favour of defendant No. 1, purporting to transfer the suit land. The sale deeds described defendant No. 1 as a member of the society, assigning him membership numbers already allotted to existing members such as Mrs. Sheela Jaiswal, Shri Arun Kumar Pandey, Shri Jagdish Dubey, and Shri Krishna Kumar Kori, as the case may be.

(c) The plaintiffs, therefore, assert that the transactions executed by Defendants Nos. 2 and 3 in favour of Defendant No. 1 are void ab initio, being contrary to the directions of the Registrar and in violation of the provisions of the Cooperative Societies Act, 1960. It is further alleged that such acts amount to misconduct and constitute an offence under Section 24 of the Chhatisgarh Vinirdishta Bhrashta Acharam Nivaram Adhiniyam,1982, as the sales were effected without lawful authority and in contravention of government regulations. Accordingly, the plaintiffs seek a declaration that the sale deeds executed in favour of Defendant No. 1 confer no valid title or ownership over the suit lands.

4. In written statements and counterclaims filed separately on behalf of Defendants Nos. 1 and 2, though the facts and pleadings therein are substantially similar. The common defence of the defendants is that the plaintiff, Shri C.K. Hela, was neither the Chairman of the concerned Cooperative Housing Society at the time of filing the suit nor thereafter. On the directions of the State Government, the Joint Registrar, Cooperative Societies, Bilaspur, had earlier dissolved the elected managing committee, and by order dated 28.02.2009, appointed Defendant No. 1 as in-charge and Defendant No. 2 as a member to manage the affairs of the society. Since the date of dissolution, no order of any competent authority or court has reinstated the plaintiff as Chairman. Consequently, all posts of the dissolved committee stood abolished, and the society has since been managed by Defendants Nos. 2 and 3 as per law.

5. It is further pleaded that after dissolution of the Committee, plaintiff was repeatedly directed to hand over charge of the committee along with its records and documents, but he failed to do so. As a result, Defendant No. 2 was compelled to assume charge unilaterally after informing the concerned Tehsildar and the Police Station Chakarbhatha. The membership register relied upon by the plaintiff is alleged to be false, baseless, and unverified. The defendants pleaded that the plaintiff has, in effect, questioned the authority and actions of the in-charge officer and member, which are matters governed by the provisions of the Cooperative Societies Act, 1960. Hence, the dispute, if any, falls within the exclusive jurisdiction of the Cooperative Court and not the civil court.

6. Defendants Nos. 1 and 2 assert that Defendant No. 1 has lawfully acquired title, ownership, and possession over the suit land by virtue of a registered sale deed executed by Defendant No. 2, who was holding the land on behalf of the committee. Sale deed was validly executed and possession was duly delivered to Defendant No. 1, whose name has also been recorded in the

revenue records. It is contended that the plaintiff's suit is baseless, filed without cause of action. Moreover, Defendant No. 1 relies upon an earlier judgment and decree dated 29.04.2011 passed in Civil Suit No. 17A/11, wherein his ownership over the same property was declared and protected by injunction. Therefore, the suit, involving the same parties and property, is barred by the principle of *res judicata* under Section 11 of the Code of Civil Procedure, 1908. The defendants also contended that the suit is defective for want of statutory notice under Section 79 and non-compliance with Section 83 of the Cooperative Societies Act.

7. Defendants No. 3 remained *ex parte* before the Trial Court and no written statement has been filed on behalf of Defendants/ Respondents No. 4 and 5.

8. Learned Trial Court on the basis of pleadings made by the respective parties, framed issues, recorded evidence of the parties and after considering the same, allowed the civil suits filed by the plaintiff holding therein that plaintiff has successfully established its claim. Hence, this appeal.

9. Learned counsel for appellants would jointly submit that appellants by name Smt. Lalita Dixsena, Shri G. Prasad, Smt. Tarkeshwari Kela, Smt. Vijay Laxmi Kela and Smt. Sujata Samual have purchased the residential plots in their favour from the Chhattisgarh Shaskiya Karmchari Grih Nirman Sahkari Samiti Maryadit, Bilaspur by way of registered sale deed on 09.08.2010 and 20.08.2010 respectively. Sale deed was executed under the signature of defendant no. 2 (Member of the Managing Committee of the Society) because the Society was superseded by the order of Joint Registrar passed in exercise of jurisdiction under Section 53 of the Chhattisgarh Cooperative Societies Act, 1960 (henceforth "Act of 1960"). They contended that the order of supersession of Society passed by the Joint Registrar was on 28.02.2009 and the sale deeds were subsequent to the order of supersession, and members of the Managing Committee were nominated by

the Registrar in the order of supersession. They contended that the plaintiff/ Respondent No. 1 filed Civil Suit challenging the sale deeds executed by the nominated members by the Joint Registrar after passing of order of supersession under Section 53 of the Act of 1960 on 24.02.2011. The Civil Suit was filed by one C.K.Hela, President of the Society, however, on the date of filing of Civil Suit, he was not having any authority or locus under the law to file suit on behalf of Society. The suit was filed by the Madhya Pradesh Shaskiya Karmchari Grih Nirman Sahkari Samiti Maryadit, Bilapur through Shri C.K.Hela (President). They contended that in the Civil Suit, there is no specific pleading about any order passed by the competent authority for vacating/setting aside the order passed under Section 53 of the Act of 1960 or the constitution of new body by way of election. In absence of any further order, it is the President and the members nominated by the Joint Registrar in the order dated 28.02.2009 under Section 53 of the Act of 1960 have the authority to manage the affairs of the Society. Appellants in their written statement have taken specific ground with regard to locus of plaintiff to file Civil Suit in view of order passed by Joint Registrar dated 28.02.2009, part of Ext. P-1. However, learned Trial Court had considered only one document of the proceedings drawn in an alleged meeting held on 16.01.2011 without discussing the authority of plaintiff, PW-1, to call for such meeting when the Society has already superseded and Managing Committee was constituted by the order of Joint Registrar and therefore Shri C.K. Hela was having the locus to file Civil Suit on behalf of Society.

10. Learned counsel for Respondent No. 2 would support the submission of learned counsel for appellants.

11. Learned counsel for Respondent No. 1 would oppose the submission of learned counsel for appellant and would submit that, learned Trial Court has already taken into consideration one of the proceedings, Ext. P-3(c) placed on record of the members of the Committee authorising Shri C.K. Hela,

President of the Society to file Civil Suit. The finding recorded by the Trial Court on issue of locus of Shri C.K. Hela to file Civil Suit is well founded and does not call for any interference. He further submits that the appellants herein/ defendant No. 1 in all the Civil Suits were not members of the Society and therefore the plots could not have been sold to the purchasers by defendant no. 1 in all the Civil Suits. Trial Court has considered this aspects and has rightly passed judgment and decree allowing the suit.

12. I have heard learned counsel for the parties and also perused the record of the cases.

13. Perusal of plaint would show that plaintiff is Madhya Pradesh (Now Chhattisgarh) Shaskiya Karmchari Grih Nirman Sahkari Samiti Maryadit, Bilaspur through Shri C.K. Hela (President), from which it is appearing that the suit was filed by Society through Shri C.K. Hela. Defendants in written statement have specifically raised an objection with regard to maintainability of the Civil Suits filed under the signature of Shri C.K. Hela in the capacity of President of the Society. The order dated 28.02.2009 passed under Section 53 of the Act of 1960 superseding the Society is not disputed by Respondent No. 1/ plaintiff, in fact, in affidavit under Order 18 Rule 4 CPC, he admitted about passing of the order dated 28.02.2009 by Joint Registrar under Section 53 of the Act of 1960, and further stated that defendants No. 2 & 3 who were nominated by Joint Registrar to be members and the President to manage affairs of Society by virtue of the order passed under Section 53(13) of the Act of 1960. In affidavit or in cross-examination, there is no mention that the order dated 28.02.2009 was vacated or set aside on any date thereafter.

14. Provision under Section 53(1) of the Act of 1960 reads as under:

> "**53. Supersession of Board:-** (1) If in the opinion of the Registrar, the Board of Directors of any Society- (a) is in persistent default; or
> (b) is negligent in the performance of the duties imposed on him/her by or under this Act or bye-

> laws of the Society or by any lawful order passed by the Registrar or is unwilling to perform such duties; or
> (c) commits acts which are prejudicial to the interest of the Society or its members; or
> (d) violates the provisions of this Act or rules made thereunder or bye-laws of the Society:
>
> The Registrar may, by order in writing, remove the Board of Directors and appoint an administrator to manage the affairs of the society for a period specified in the order.
>
> The aforesaid period may be extended by the Registrar from time to time till the constitution of the elected board:
>
> Provided that, the Board of Director of any such Co-operative Society shall not be superceded or kept under suspension, where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:
>
> Provided further that, in case of a Co-operative Bank, the order of supersession shall not be passed without previsious consultation with the Reserve Bank:

15. Section 53(13) of the Act of 1960, as it was prior to amendments, reads as under:

> "**13.** Notwithstanding anything contained in this Act, or rules made thereunder or byelaws of society, if the committee of society ceases to function due to order of any Court or otherwise, the Registrar may appoint a person or committee of persons temporarily till the Court order is vacated or the new elections are held and the committee takes charge."

16. Under above extracted provision Joint Registrar has passed an order appointing temporary committee for managing the affairs of the Society and further it also provides that the order will remain in force till it is vacated or the new elections are held and the new committee takes the charge. The order dated 28.02.2009 passed by the Joint Registrar, Cooperative Societies, Bilaspur, under Section 53(13) of the the Act of 1960 whereby the elected Board of Directors of the Society was dissolved and the Society was

placed under the management of persons appointed by the Registrar, is not disputed. The Registrar had the statutory power under Section 53(1) and 53(13) of the Act to remove a Board of Directors and appoint an administrator or a committee to manage the affairs of the Society when the Board is in default or ceases to function.

17. From record, it is evident that no material has been produced by the plaintiff to show that the aforesaid supersession order dated 28.02.2009 was ever vacated, withdrawn or set aside by any competent authority, nor any evidence has been led to prove that any fresh election was conducted thereafter to constitute a new elected Managing Committee, and therefore, it is clear that from 28.02.2009 onwards, the Society continued under the charge of the officers nominated by the Registrar under the said supersession order.

18. In absence of any evidence showing restoration of the old committee, the claim of the plaintiff that he continued to be the Chairman of the Society or that he was competent to file and prosecute the suits on behalf of the Society cannot be accepted. Plaintiff himself, in his affidavit under Order 18 Rule 4 CPC, admitted the existence of the order of supersession passed by the Joint Registrar under Section 53 of the Act of 1960 and the appointment of Defendants No. 2 and 3 to manage the affairs of the Society. Once the elected Board stood dissolved and administrators were appointed under Section 53, previous office-bearers ceased to hold any authority of the Society unless reinstated by a subsequent order or election. Thus, *prima facie*, Shri C.K. Hela had no locus standi to file civil suits representing the Society, unless he established that the supersession order was vacated or that he had been duly re-elected or re-authorised thereafter. The proceedings relied upon by the plaintiff regarding a meeting dated 16.01.2011 authorising him to institute the suits also lack legal force because no evidence is produced to show that such a meeting was convened under

lawful authority when the Society was already under supersession. The Trial Court appears to have relied on this proceeding (Ex. P-3-C) without analysing whether such authorisation was in accordance with law.

19. It is settled principle that once a co-operative society is placed under supersession, the administration vests in the Registrar's appointee and the erstwhile elected body cannot exercise representative powers unless lawfully restored. Hon'ble Supreme Court has clarified that an administrator's duty is to manage and conduct elections with the existing roll, and not to alter the composition of the society by admitting new members. In case of **Jt. Registrar of Co-operative Societies, Kerala v. T.A. Kuttappan**, reported in (2000) 6 SCC 127, reiterating its earlier view in **K. Shantharaj v. M.L. Nagaraj**, reported in **(1997) 6 SCC 37** Hon'ble Supreme Court held as under:

> "**3.** The question whether an administrator appointed during supersession of a Committee of Management of a cooperative society can enrol new members is no longer res integra. When an identical question came up before this Court for consideration in *K. Shantharaj case* [(1997) 6 SCC 37] this Court held that from the language of Section 30 [which is similar to Section 32(4) of the Act] and Section 30-A of the Karnataka Cooperative Societies Act, 1959, it would be clear that the administrator, subject to control of Registrar exercise all or any of the functions of the society, and the Special Officer, subject to control of the State Government and the Registrar exercise and perform all the powers and functions of the committee of the society and in the interest of the society can take such action as is necessary for proper functioning of the society as per law. He should conduct elections as is enjoined thereunder, that is, he is to conduct election with the members as on the rolls and by necessary implication, he is not vested with the power to enrol new members of the society. In the light of this clear enunciation of law the view taken by the High Court appears to be correct.

> "**7.** If we carefully analyse the provisions of the Act, it would be clear that the administrator or a committee appointed while the Committee of Management of the society is under supersession cannot have the power to enrol new members and such a question ought not to be decided merely by indulging in an exercise on semantics in ascertaining the meaning of the expression "have power to exercise all or any of the functions …"

20. For the foregoing, applying these principles settled by Hon'ble Supreme Court, once the Board stood superseded on 28.02.2009, Shri C.K. Hela could not, in law, assume or continue any representative authority of the Society without having a subsequent order or fresh election restoring that capacity. It is exceptional circumstances, and during its currency, the interim management holds the field until a duly elected board assumes charge.

21. In **State of M.P. v. Sanjay Nagayach**, reported in **(2013) 7 SCC 25**, Hon'ble Supreme Court has observed thus:

> "**34** The High Court, in our view, has therefore rightly exercised its jurisdiction under Article 226 of the Constitution and the alternative remedy of appeal is not a bar in exercising that jurisdiction, since the order passed by the Joint Registrar was arbitrary and in clear violation of the second proviso to Section 53(1) of the Act.
>
> **42.1** Supersession of an elected Managing Committee/Board is an exception and be resorted to only in exceptional circumstances and normally elected body be allowed to complete the term for which it is elected"

22. Thus the legal position is that, post-supersession, representation and consequential acts on behalf of the Society lie with the administrator/committee till restoration through law; the superseded Board (or its office-bearers) has no surviving locus to institute proceedings or to confer authorisations in the Society's name.

23. So far as, the validity of the sale-deeds is concerned, the admitted position is that the Registrar, by order dated 20-21.09.2005, had expressly restrained

the in-charge officers of the Society from enrolling new members or from buying and selling plots. Despite such restriction, Defendants No. 2 and 3 executed sale-deeds in favour of Defendant No. 1, purporting to sell the suit land while describing him as a member of the Society. The membership numbers mentioned in those deeds correspond to already existing members, which raises a strong presumption of fabrication.

24. The defendants have contended that the sale-deeds were executed lawfully under the authority of the Registrar's order of supersession and that possession was duly transferred to Defendant No. 1. However, there is nothing on record to show that the Registrar had specifically empowered the in-charge officers to transfer immovable property or to add new members during the subsistence of the prohibitory order dated 20-21.09.2005.

25. In the considered opinion of this Court, such sale transactions effected in violation of express prohibitory directions of the Registrar cannot create a valid title in favour of the purchaser. It is settled law that where a transaction is prohibited by statute or by the terms of an order issued under statutory power, the transaction is *void ab initio* and cannot be given effect by a Court. Hon'ble Supreme Court in **A.K. Pandey & Ors. v. Union of India**, reported in **(2009) 10 SCC 552** has pointed out that "*Where a contract, express or implied, is by statute explicitly or by necessary implication forbidden, no Court will lend its assistance to give it effect.*"

26. From the above implication, it is clear that, if the statute or order imposes a penalty or makes the transaction illegal, then the agreement or deed is *void ab initio*. In the present case the order of Registrar dated 20-21.09.2005 clearly restrained enrolments and transfer of plots; therefore, any registered sale-deed executed by the in-charge committee in breach of that order must be treated as void from the outset and cannot confer valid title to Defendant No. 1.

27. Having considered the entire material on record and the rival contentions of the learned counsel for the parties, this court is of the view that the Trial Court has not properly appreciated the issue of *locus standi* of the plaintiff in light of the supersession order and the consequent authority of the Registrar-appointed in-charge officers. The finding recorded by learned Trial Court that plaintiff being authorized by resolution dated 16.01.2011 and thus having locus to file the suits is not sustainable.

28. Learned Trial Court has failed to properly appreciate the *inter-related questions* of (i) locus standi of the plaintiff to represent the Society after its supersession, and (ii) the legality of the sale-transactions executed during such supersession. These two questions are inseparably connected because the validity of the plaintiff's claim necessarily depends on whether he had legal competence to maintain the suit, while the validity of the sale-deeds depends on whether the in-charge officers acted within the authority vested in them by the Registrar under Section 53 of the Act of 1960 and was in conformity with the Registrar's prohibitory order dated 20-21.09.2005.

29. The Trial Court, however, appears to have confined itself to the fact that registered deeds existed and were executed after payment of consideration, without testing whether the executants possessed lawful competence under the Act of 1960 or whether the sale deeds were hit by the order of Registrar passed in exercise of power under Section 53 of the Act of 1960. The omission to examine these jurisdictional and substantive questions would amount to a legal error going to the root of the matter.

30. Learned Trial court has not framed the specific issue as to whether plaintiff is having locus to file the suit in the facts of the case, however, in para-9 of the judgment it was considered while deciding the objection raised by defendant No. 1 & 2. This Court based on facts, evidence and decision of Hon'ble Supreme Court arrived at a conclusion that once the Board is superseded by order of Registrar under Section 53 of the Act of 1960 then the management

of the Society lies with the officials deputed to manage the affairs of the Society. After passing of an order, elected body becomes *functus officio* and as such there cannot be any meeting, resolution of the elected members of the Society and therefore the resolution passed by the elected body authorizing Shri C.K. Hela (Member/President) to file suit is not having any force under law. Consequently, Shri C.K. Hela was not having any locus to file suit on behalf of Society on the date suit was filed.

31. In above facts of the case, suit filed is to be dismissed only on the sole ground that the suit was not tenable in its form. Accordingly, suits are dismissed on this ground only.

32. As this Court has held that suits are to be dismissed as not maintainable through Shri C.K. Hela (President), this Court is not going into the issue whether the sale deeds dated 09.08.2010 in favour of Smt. Lalita Dixsena, defendant No. 1 in Civil Suit No.8A/2011, Smt. Tarkeshwari Kela, defendant No. 1 in Civil Suit No. 5A/2011, Smt. Vijay Laxmi Kela, defendant No. 1 in Civil Suit No. 7A/2011, and sale deeds dated 20.08.1010 in favour of Shri G. Prasad, defendant No. 1 in Civil Suit No. 9A/2011 and Smt. Sujata Samual, defendant No. 1 in Civil Suit No. 6A/2011, to be void or not and liable to be cancellled or not.

33. For the foregoing discussion, impugned judgments and decrees are set aside, the appeals are allowed and the Civil Suit Nos. 8A/2011, 9A/2011, 5A/2011, 7A/2011 and 6A/2011 are hereby dismissed.

34. No order as to costs.

35. Decree be drawn up accordingly.

Sd/-

(Parth Prateem Sahu)

JUDGE

pwn