



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.No.716 of 2009 and
M.P.No.1 of 2009

St.Antony Shrine,
Rep. by is Priest,
Court Road, Johnsonpet,
Salem.

... Appellant

Vs.

- 1.Tmt.Mary
- 2.R.Savarimuthu (died)
- 3.The Commissioner,
Salem Municipality,
Salem -1.
- 4.Mrs.Yacob Jayamani
- 5.S.Thiagarajan
- 6.S.Peter
- 7.B.Josephine
- 8.B.Rosali
- 9.S.Regina

(R5 to R9 are brought on record as LR's of the deceased R2 vide order of Court dated 13.02.2014 made in M.P.Nos.2 & 3 of 2014)

... Respondents

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 17.09.2008 in



WEB COPY A.S.No.83 of 2005 on the file of the Additional District Judge (Special Judge for EC Act Cases) Salem, modifying the judgment and decree dated 17.07.2002 in O.S.No.208 of 1997 on the file of the I Additional District Munsif Court, Salem.

For Appellant : Mr.D.Shivakumaran
For Respondents : Mr.K.Selvaraj for R1, R5 to R9
Mr.K.Sridhar (Salem Municipality)
Standing Counsel for R3
R2-died

JUDGMENT

This Second Appeal has been filed to set aside the judgment and decree dated 17.09.2008 in A.S.No.83 of 2005 on the file of the Additional District Judge (Special Judge for EC Act Cases) Salem, modifying the judgment and decree dated 17.07.2002 in O.S.No.208 of 1997 on the file of the I Additional District Munsif Court, Salem.

2. The fifth defendant in O.S.No.208 of 1997 on the file of the First Additional District Munsif Court at Salem is the appellant herein. The appellant is St.Antony Shrine represented by its Priest. The suit had originally been filed by the first and second respondents viz., Mary and her husband R.Savarimuthu seeking declaration that the property belongs to them and restraining the defendants from interfering with peaceful



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possession and restraining the third defendant, the Commissioner of Salem Municipality from effecting transfer of name and to direct the fourth respondent to vacate from the suit property. The fourth respondent was a tenant in the suit property. By judgment dated 17.07.2002, the suit had been decreed, but dismissed with respect of the direction sought against the tenant to vacate the premises. Thereafter, the appellant herein / 5th defendant had filed A.S.No.83 of 2005 and the plaintiffs / first and second respondents herein filed Cross Objection No.83 of 2005. By a common judgment dated 17.09.2008, the learned First Additional District Judge, Salem / Additional District Judge and Special Judge for EC Act cases, Salem, had dismissed the Appeal Suit and had allowed the Cross Objection. Aggrieved by that judgment, the fifth defendant had filed this Second Appeal.

3. Pending the Second Appeal, the second respondent R.Savarimuthu died and his legal heirs had been brought on record as respondents 5 to 9. A learned Single Judge of this Court had earlier directed that the issues be examined by the Mediation and Conciliation Centre, Salem. But the mediation efforts did not fructify. Thereafter, on 24.10.2024, it was noted



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that there was no instruction received from the appellant, in spite of communication sent by the learned counsel for the appellant. The Registry was therefore directed to issue notice to the appellant. It is seen that the name of the appellant had been printed in the cause list. The learned counsel again represents that the appellant had not come forward to give necessary instructions. It is obvious that the appellant is not interested in prosecuting the Appeal any further.

4. Hence, this Second Appeal stands dismissed for non-prosecution.

No costs. Consequently, connected miscellaneous petition is closed.

Speaking order / Non-speaking order

10.07.2025

Index : Yes / No

Neutral Citation : Yes / No

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S.A.No.716 of 20



WEB COPY

1.The Additional District Judge
(Special Judge for EC Act Cases) Salem.

2. I Additional District Munsif Court,
Salem.



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S.A.No.716 of 20



C.V.KARTHIKEYAN, J.

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