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S.A.No.747 of 2014

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

RESERVED ON : 28.10.2025

PRONOUNCED ON : 15.12.2025

CORAM:

**THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

S.A. No.747 of 2014  
and CMP Nos.25700 of 2025 & 20671 of 2024

A. Duraisamy  
S/o.Anganna Gounder  
D.No.67, Rangasamy Gounder Pudur  
Kalapatti Post,  
Coimbatore – 641 062.

...Appellant

Versus

V. Anganna Gounder (died)

1. A. Thirumoorthy  
S/o.Anganna Gounder  
67, Rangasamy Gounder Pudur  
Kalapatti village,  
Coimbatore – 641 062.

2. A.Kandhamani  
S/o.Anganna Gounder  
247/1, Avinashi Road,  
Chinniyampalayam,  
Coimbatore – 641 062.

3. C.N.Marappan (died)  
S/o.Marappan  
2/200, Perumal Thottam  
Chinniyampalayam,  
Coimbatore – 641 062



S.A.No.747 of 2014

4. C.M.Senthilkumar  
S/o.Marappan  
2/200, Perumal Thottam,  
Chinniyampalayam,  
Coimbatore – 641 062.

5. C.M.Lakshmanamoorthy  
S/o.Marappan  
2/200, Perumal Thottam,  
Chinniyampalayam,  
Coimbatore – 641 062.

6. Kalamani  
W/o.Anganna Gounder  
298, Bala Thandayuthapani Street,  
Chinniyampalayam,  
Coimbatore – 641 062.

7. Premkumar  
S/o.Anganna Gounder  
298, Bala Thandayuthapani Street,  
Chinniyampalayam,  
Coimbatore – 641 062.

8. A.Meenakshi  
W/o.K.R.Palanisamy  
S/o.Ramasamy,  
th  
339, 7 Street, Gandhipuram,  
Coimbatore – 641 012.

9. R.Palanisamy  
S/o.Ramasamy  
th  
339, 7 street, Gandhipuram,  
Coimbatore – 641 012.

10. M.Rukmani  
w/o.late Marappan  
No.2/15, Thulasi Garden,  
Karayampalayam Mylampatty

2/12



S.A.No.747 of 2014

Village, Sulur Taluk,  
Coimbatore District.

... Respondents

WEB COPY

R7 declared as major vide Court order dated 19.08.2024 made in  
CMP.No.11886 of 2024 in S.A.No.747 of 2014 (NSJ)

R3 died, R10 is brought on record as legal heirs of the deceased R3 vide  
Court order dated 08.09.2025 made in CMP.Nos.21984, 21990 & 21991  
of 2025 in S.A.No.747 of 2014 (Dr.ADMCJ)

PRAYER in S.A.:

Second Appeal filed under Section 100 of the Civil Procedure  
Code against the judgment and decree dated 31.07.2013 in A.S.No.162 of  
2004 on the file of the III Additional and Sessions Judge at Coimbatore  
confirming the judgment and decree dated 16.02.2004 made in  
O.S.No.491 of 1998 on the file of the I Additional Subordinate Judge at  
Coimbatore.

PRAYER in CMP No.25700 Of 2025.:

To strike off the respondents 8 and 9 from the present appeal.

PRAYER in CMP.No.20671 of 2024:

To receive the documents mentioned in the petition as additional  
documents in this S.A.No.747 of 2014.

APPEARANCE OF PARTIES:

For Appellant : Mr. P.Tamilavel

For Respondents : Mr. P.Dinesh Kumar  
for R1 & R2



*S.A.No.747 of 2014*

Mr.P.Shri Santhaaji  
for R4 & R5  
Mr.V.Jaya Chandran  
for R7  
Mr.N.Ramesh  
for Mr.Haran.C for R8 & R9  
R6 – died

## **J U D G M E N T**

Heard.

2.This Second Appeal is directed against the judgment and decree dated 31.07.2013 passed in A.S.No.162 of 2004 by the learned III Additional District Judge, Coimbatore, confirming the judgment and decree dated 16.02.2004 in O.S.No.491 of 1998 on the file of the I Additional Sub Court, Coimbatore.

3.For the sake of convenience, the parties are referred to as per their rankings in the plaint.

4. CMP No.25700 of 2025 to Strike Off Respondents 8 & 9:  
During the pendency of this Second Appeal, respondents 1 and 2 (plaintiffs 1 and 3) filed CMP No.25700 of 2025 seeking to strike off respondents 8 and 9 from the array of parties on the ground that they are not bona fide purchasers.



S.A.No.747 of 2014

WEB COPY

5.The affidavit avers that respondents 8 and 9 purchased the suit properties from the deceased first defendant under two sale deeds dated 17.11.2006, during the pendency of the first appeal. They were impleaded as respondents in A.S. No. 162 of 2004 by order dated 27.09.2012 in I.A. No. 487 of 2012. It is alleged that, though the first defendant owned only 1.86 acres, they secured conveyance of 5.55 acres, and that they colluded to lay claim to compensation arising from land acquisition proceedings. The relief sought in this petition cannot be accepted for the following reasons:

6.Respondents 8 and 9 are admittedly purchasers *pendente lite*. Under Section 52 of the Transfer of Property Act, 1882, a transfer effected during the pendency of litigation is not void, but remains subject to the result of the *lis*. Their impleadment in the first appeal has attained finality. The impleading order dated 27.09.2012 was never challenged, and the first appeal itself was disposed of on 31.07.2013. Having been impleaded as proper parties in the appeal, they cannot now be struck off at the stage of second appeal. In **Thomson Press (India) Ltd. v. Nanak Builders & Investors Pvt. Ltd.**, [2013 (5) SCC 397] the Supreme Court held that a purchaser *pendente lite* is a necessary and proper party, though

5/12



*S.A.No.747 of 2014*

his defences are confined to those available to the transferor. The present petition, filed after more than a decade, discloses no legal basis to reopen or unsettle a final order of impleadment. Accordingly, the Civil Miscellaneous Petition is dismissed.

7. The brief facts relating to the suit may now be stated. The plaintiffs are the sons of the first defendant. After the demise of their mother, the first defendant expressed his intention to contract a second marriage. With a view to avoiding future disputes, a compromise agreement dated 11.08.1994 (Ex. A15) was entered into before panchayatars in respect of three items of properties.

**Item No. 1 – Avinashi Road, Chinniyampalayam (21 cents):**

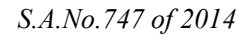
This was the self-acquired property of the first defendant. He agreed to execute a settlement deed in favour of the plaintiffs, reserving for himself a life interest and the right to receive rents, with the property to vest absolutely in the plaintiffs after his lifetime.

**Item No. 2 – Suit property at Kalapatty Village:**

This was also self-acquired agricultural land, in respect of which the agreement contemplated execution of a sale deed in favour of the plaintiffs.

**Item No. 3 – Joint family property at Kalapatty Village:**

The first defendant agreed to relinquish his one-fourth share upon receipt of a sum of Rs.6,00,000/- from the plaintiffs.



8.It is the case of the plaintiffs that the sum of Rs.6,00,000/-

9.The courts below, upon appreciation of the evidence on record,

10. Findings of the Courts below: The courts below concurrently

11.Ex. A15 does not specify any sale consideration for the suit



S.A.No.747 of 2014

insofar as the suit property is concerned. The plaintiffs have also taken inconsistent stands with respect to consideration: Ex. A8 dated 18.08.1994 recites the sale consideration as Rs.3,25,000/-, whereas Ex. A7 dated 27.07.1997, executed nearly three years later, cancels Ex. A8 and therein recites that a sum of Rs.6,00,000/- was paid as full consideration.

12. Once the terms of Ex. A15 were not adhered to by either party, the courts below held that the original arrangement stood novated, and that the plaintiffs were therefore not entitled to seek specific performance of its unperformed part. These findings are essentially factual and rest on the evidence on record.

13. At the time of admission, the following substantial question of laws were framed:

- (a) Whether the Courts below are correct in law in rejecting Ex. A15 Panchayat agreement which was signed by both the parties and proved by examining the attesting witness only on the ground that with respect of 2 other properties the agreement had been novated?*
- (b) Whether the courts below are correct in law in coming to the conclusion that since the agreement is no longer applicable to two properties due to change in*



S.A.No.747 of 2014

*circumstances, it would automatically not apply to the property in question, in respect of which no other arrangement had been made?*

*(c) Whether the Courts below are correct in law overlooking the admission of the deceased 1<sup>st</sup> Defendant with reference to the payment of Rs.6,00,000/- in respect of all the properties including the suit property?*

14.The execution of Ex. A15 dated 11.08.1994 is admitted by both sides. It is a composite arrangement entered into between the plaintiffs and the defendants. It is also an undisputed fact that the parties did not adhere to its terms. In respect of the first item of property, instead of executing a settlement deed reserving a life interest with the right to collect rents, the first defendant sold the property to the plaintiffs. The plaintiffs paid a sum of Rs.6,00,000/- by demand draft on 18.08.1997 and entered into Ex. A8, which records delivery of possession, handing over of the demand draft, and a breakup of the said amount. The parties thus consciously departed from and did not act upon the terms of Ex. A15. Such conduct amounts to giving a go-by to Ex. A15 and results in novation of the original contract. The courts below therefore rightly rejected the plaintiffs' plea founded on Ex. A15.

15. This appeal essentially seeks a re-appreciation of facts. A



S.A.No.747 of 2014

contract that is incomplete, uncertain, self-contradictory, and subsequently altered by consent is not capable of specific enforcement.

The courts below have correctly applied the settled principles of law. The concurrent findings on novation, absence of consideration, the existence of contradictory documents, and the conduct of the parties disclose no perversity. No jurisdictional error or misapplication of law is demonstrated. Accordingly, the substantial questions of law framed stand answered against the appellants.

16.In the result,

(i) CMP No. 25700 of 2025 is dismissed with costs. Respondents 8 and 9, being purchasers *pendente lite* who were duly impleaded in the first appeal, cannot be struck off at this stage.

(ii) The Second Appeal is dismissed with costs. No substantial question of law arises warranting interference with the concurrent findings. Consequently, CMP.No. 20671 of 2024 is closed.

**15.12.2025**

*dpq*

Index:Yes/No

10/12



*S.A.No.747 of 2014*

Speaking Order /Non-speaking order

Neutral citation:Yes/No

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To

1.The learned III Additional  
and Sessions Judge  
Coimbatore

2. The learned I Additional  
Subordinate Judge  
Coimbatore.

3. The Section Officer,  
V.R.Records, Madras High Court.



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*S.A.No.747 of 2014*

**DR. A.D. MARIA CLETE, J**

*dpq*

Pre-Delivery Judgment in  
S.A. No.747 of 2014

15.12.2025