



S.A.(MD).Nos.631 of 2011, 493 and 494 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.01.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).Nos.631 of 2011, 493 and 494 of 2017

and

C.M.P.(MD)Nos.10361 and 10362 of 2017 and 7081 of 2024

S.A.(MD).No.631 of 2011:

Kanyakumari District Lorry Owners
Association,
Represented by its President,
P.Raja Rethinam,
Main Road,
Ozhuginasery,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

... Appellant

/Vs./

P.John Maadasamy (Died)

P.Paulkani Nadar

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree, dated 30.11.2010, made in A.S.No.36 of 2009 on the file of the Principal Sub Court, Nagercoil, confirming the Judgment and Decree, dated 21.04.2008, made in O.S.No.680 of 1999 on the file of the II



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Additional District Munsif Court, Nagercoil.

For Appellant : Mr.S.Parthasarathy
for M/s.Deepamathi
For Respondent : Mr.H.Thayumanaswamy

S.A.(MD).No.493 of 2017:

Selvam Educational and Charitable Trust,
Represented by its Managing Trustee,
S.A.Joy Raja,
D.No.8/90, Raj Bhavan II,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

... Appellant

/Vs./

1.Kanyakumari District Lorry Owners
Association,
Represented by its President,
P.Raja Rethinam,
Main Road,
Ozhuginasery,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

2.P.Paulkani Nadar

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code,
against the Judgment and Decree, dated 30.11.2010, made in A.S.No.36 of 2009



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on the file of the Principal Sub Court, Nagercoil, confirming the Judgment and Decree, dated 21.04.2008, made in O.S.No.680 of 1999 on the file of the II Additional District Munsif Court, Nagercoil.

For Appellant	: Mr.V.Meenakshi Sundaram for Mr.D.Nallathambi
For R2	: Mr.H.Thayumanaswamy

S.A.(MD).No.494 of 2017:

Selvam Educational and Charitable Trust,
Represented by its Managing Trustee,
S.A.Joy Raja,
D.No.8/90, Raj Bhavan II,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

... Appellant

/Vs./

1.Kanyakumari District Lorry Owners
Association,
Represented by its President,
P.Raja Rethinam,
Main Road,
Ozhuginasery,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

2.P.Raja Rethinam
3.P.Paulkani Nadar

...Respondents



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PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree, dated 30.11.2010, made in A.S.No.37 of 2009 on the file of the Principal Sub Court, Nagercoil, confirming the Judgment and Decree, dated 21.04.2008, made in O.S.No.622 of 1999 on the file of the II Additional District Munsif Court, Nagercoil.

For Appellant : Mr.V.Meenakshi Sundaram
for Mr.D.Nallathambi
For R2 : Mr.H.Thayumanaswamy

COMMON JUDGMENT

All the second appeals are arising from the common facts and issue among the parties. Hence the three appeals are heard together and common judgment is passed.

2.(i) The second appeal in S.A.(MD)No.631 of 2011 is filed by the defendant in the suit namely Kanyakumari District Lorry Owners Association against the judgment and decree, dated 30.11.2010, passed in A.S.No.36 of 2009 on the file of the Principal Sub Court, Nagercoil, confirming the judgment and decree, dated 21.04.2008, passed in O.S.No.680 of 1999 on the file of the II



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Additional District Munsif Court, Nagercoil.

2.(ii). The second appeal in S.A.(MD)No.493 of 2017 is preferred by the 3rd party to the suit namely Selvam Educational and Charitable Trust against the judgment and decree, dated 30.11.2010, passed in A.S.No.36 of 2009 on the file of the Principal Sub Court, Nagercoil, confirming the judgment and decree, dated 21.04.2008, passed in O.S.No.680 of 1999 on the file of the II Additional District Munsif Court, Nagercoil.

2.(iii) The second appeal in S.A.(MD)No.494 of 2017 is preferred by the 3rd party to the suit namely Selvam Educational and Charitable Trust against the judgment and decree, dated 30.11.2010, passed in A.S.No.37 of 2009 on the file of the Principal Sub Court, Nagercoil, confirming the judgment and decree, dated 21.04.2008, passed in O.S.No.622 of 1999 on the file of the II Additional District Munsif Court, Nagercoil.

3.(i) The suit in O.S.No.622 of 1999 is filed by the plaintiffs namely Lorry



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Owners Association and another inter alia praying for permanent injunction restraining the defendant namely, P.John Maadasamy from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property admeasuring 30 cents land. The said suit was decreed in favour of the Lorry Owners Association as far as 20½ cents, but dismissed as far as 10½ cents of land is concerned. Aggrieved over the Lorry Owners Association had preferred Appeal Suit in A.S.No.37 of 2009 and the same was dismissed confirming the Trial Court judgment and decree. The Lorry Owners Association failed to file any second appeal against the appeal suit.

3.(ii) The suit in O.S.No.680 of 1999 is filed by the plaintiff P.John Maadasamy inter alia praying for declaration and injunction against the defendant namely Lorry Owners Association against the suit property admeasuring 10½ cents. In the meanwhile, the Lorry Owners Association had sold the property to Selvam Educational and Charitable Trust, hence the two second appeals are preferred by the purchaser. The said suit was decreed in favour of the P.John Madasamy as far as 10½ cents is concerned. Aggrieved over the Lorry Owners



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Association had preferred Appeal Suit in A.S.No.36 of 2009 and the same was dismissed confirming the Trial Court judgment and decree. Aggrieved over the Lorry Owners Association had filed the present second appeal in S.A.(MD)No. 631 of 2011.

3.(iii) In the meanwhile, the entire property to an extent of 20½ cents was sold by the Lorry Owners Association to the Selvam Educational and Charitable Trust. Since the Lorry Owners Association failed to prefer any appeal against the judgment and decree passed in A.S.No.37 of 2009, the subsequent purchaser in order to protect its interest had preferred two second appeals by taking leave of the Court. The S.A.No.493 of 2017 is preferred against the judgment and decree passed in A.S.No.36 of 2009 which is passed against O.S.No.680 of 1999. The S.A.(MD)No.494 of 2017 is preferred against the judgment and decree passed in A.S.No.37 of 2009 which is passed against O.S.No.622 of 1999. Hence the three second appeals.

4. After hearing the arguments of the parties, this Court was of the



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considered opinion that the issue ought to be amicably settled between the parties, especially when it was brought to the knowledge of this Court that that the 3rd party purchaser, Selvam Educational and Charitable Trust, which is an Educational Institution had put up construction for the purpose of running the college, wherein the land including 10½ cents belonging to the said John Madasamy was within the premises of the college. Further it is seen that the college is legally entitled to 20 ½ cents and the said John Madasamy is legally entitled to the remaining 10 ½ cents. Hence this Court took earnest efforts to settle the issue and finally the parties agreed to the following settlement:

i.The Selvam Educational and Charitable Trust is directed to pay Rs.1,60,00,000/- (Rupees One Crore Sixty Lakh only) to respondent herein namely Mr.Paulkani Nadar (son of the original plaintiff John Madasamy).

ii. In the lieu of the aforesaid amount, the said Mr.Paulkani Nadar had agreed to give up his rights over the suit property



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admeasuring 10 ½ cents.

iii. The said Mr.Paulkani Nadar is directed to furnish the bank account details so that the amount can be transferred to the said account.

iv. The Selvam Educational and Charitable Trust shall pay the above said amount to Mr.Paulkani Nadar in five instalments. The 1st and 2nd instalments are to the tune of Rs.20,00,000/- (Rupees Twenty Lakh only) and the 3rd, 4th and 5th instalments are to the tune of Rs.40,00,000/- (Rupees Forty Lakh only).

v. The 1st instalment of Rs.20,00,000/- (Rupees Twenty Lakh only) shall be paid on or before 28.02.2025. Even though longer time is granted, the same may be paid at the earliest.

vi. As far as the 2nd instalment of Rs.20,00,000/- (Rupees



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Twenty Lakh only) is concerned, the same shall be paid on or before 31.03.2025.

vii. Thereafter, the 3rd instalment to the tune of Rs.40,00,000/- (Rupees Forty Lakh only) shall be paid on or before 31.07.2025, the 4th instalment to the tune of Rs.40,00,000/- (Rupees Forty Lakh only) shall be paid on or before 30.10.2025 and the 5th instalment to the tune of Rs.40,00,000/- (Rupees Forty Lakh only) shall be paid on or before 31.12.2025.

5. With the above said directions, all the second appeals are disposed of. The parties are at liberty to approach this Court, if there is any difficulty in the settlement. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2025

Index : Yes / No
NCC : Yes / No
Tmg



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TO:

1. Principal Sub Court, Nagercoil.
2. II Additional District Munsif Court,
Nagercoil.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD).Nos.631 of 2011,
493 and 494 of 2017

Dated:
23.01.2025