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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No.80 of 2026
& CRP.Nos.409 & 411 of 2026
& CMP.Nos.2336, 2326, 2697 & 2704 of 2026

A.S.No.80 of 2026:

K.Selvarajan

..Appellant

Vs.

1.Amuthasurabi Educational Trust,
having its registered office at
Chinnamudalaipatti Post,
Namakkal Taluk and District,
represented by its
Managing Trustee
Smt.M.Tamilarasi and Secretary-cum-Trustee
Thiru M.Gopumadhavan.

2.P.Kandasamy
3.M/s.Raja Auto Finance,
L.S.Building, No.151-A6 Salem Road,
Namakkal
Represented by its Managing Partner.

..Respondents

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure, to set aside the judgment and decree in O.S.No.55 of 2025 dated 22.04.2025 passed by the Principal District Court, Namakkal, decreeing the suit for partition in favour of the respondents/plaintiffs.



For Appellant : Mr.J.Umacharan

For Respondents : Mr.R.Ramaguru for R1

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CRP.Nos.409 & 411 of 2026:

Venugopal

..Petitioner in both CRPs

Vs.

1.Amuthasurabi Educational Trust,
registered office at
No.5/120-1, N.G.G.O's Colony,
Chinnamudalaipatti Post,
Namakkal Taluk and District,
represented by its Managing Trustee
M.Tamilarasi and Secretary-cum-Trustee
M.Gopumadhavan S/o. C.P.Marimuthu
No.139 E, Salem Road,
Namakkal Post and District.

2.K.Selvarajan
3.P.Kandasamy
4.M/s.Raja Auto Finance,
Represented by its Managing Partner,
L.S.Building, No.151-A6 Salem Road,
Namakkal.

..Respondents in both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order dated 28.01.2026 in Unnumbered I.A in O.S.No.55 of 2025, decreed on 22.04.2025 and consequential direction to number the Unnumbered I.A, on the file of the Principal District Judge, Namakkal.

For Petitioner : Mr.S.Mukunth
Senior Counsel for Mr.M.Guruprasad

For Respondents : Mr.R.Ramaguru



COMMON JUDGMENT

The appeal suit and the revision petitions are taken up together.

2.The 1st defendant in O.S.No.55 of 2025 is the appellant in A.S.No.80 of 2026.

The 1st respondent/plaintiff filed a suit, seeking permission to sell the properties belonging to the plaintiff/Trust to the appellant, in terms of an agreement dated 11.09.2023 or to any other buyer in the event of the appellant failing to co-operate, to complete the sale, in order to discharge the loans availed by the plaintiff from the defendants 2 and 3.

3.The suit came to be decreed by the Principal District Court, Namakkal on 22.04.2025. Advocate Commissioners have been appointed by the trial Court to go ahead with the sale of the properties belonging to the plaintiff/Trust. Challenging the denial of the right of the appellant to purchase the property, the appeal suit has been preferred.

4.Civil Revision Petitions have been preferred at the instance of the third parties, who intends to participate in the public auction, in order to purchase the immovable properties belonging to the plaintiff/Trust.



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5.Today, however, the learned counsel for the plaintiff has filed a memo, stating that the plaintiff is intending to withdraw the suit itself. As the Trust is now not desirous of selling its immovable properties and that the purposes for which the properties were sought to be sold, in respect of which, permission was sought for no longer subsists on account of the dues of the defendants 2 and 3 having been settled, without a requirement to sell the properties of the Trust. As plaintiff, there can be no impediment for the plaintiff, who has approached the Court, to seek withdrawal of the suit at any point of time, despite the suit being at the appellate stage. Today, the only prejudice that can be caused is to the appellant. However, the appellant has also made an endorsement that in view of the plaintiff withdrawing the suit, he also seeks for withdrawal of the appeal.

6.Mr.S.Mukunth, learned Senior Counsel appearing for the revision petitioner in the civil revision petitions would however state that the request of the appellant, as well as the plaintiff is clearly collusive in nature and only in order to defeat the rights of the intending prospective purchasers, like the revision petitioners. He would also state that the plaintiff/Trust is a public charitable trust and therefore, the Court, being the custodian, should not permit any such collusion.

7.However, the fact that the plaintiff is not seeking any permission to sell the property, but only for withdrawing the suit, this Court cannot take any objection



to the said request. As *dominus litis*, the plaintiff is entitled to withdraw the suit even pending first appeal proceedings. Therefore, recording the objections of the revision petitioner and taking into account the memo dated 04.02.2026 filed by the plaintiff, as well as the endorsement made by the appellant, the suit in O.S.No.55 of 2025 is dismissed as withdrawn. Consequently, A.S.No.80 of 2026 is dismissed and CRP.Nos.409 & 401 of 2026 are disposed of. All directions issued by the trial Court in the judgment and decree are consequently set aside. No costs. Connected Civil Miscellaneous Petitions are closed.

04.02.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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To

The Principal District Judge, Namakkal.



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P.B.BALAJI.J.

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Pre-delivery judgment made in
A.S.No.80 of 2026
& CRP.Nos.409 & 411 of 2026
& CMP.Nos.2336, 2326, 2697 & 2704 of 2026

04.02.2026