



*S.A.(MD)Nos.253 and 255 of 2022
and Cros.Obj(MD)Nos.32 and 29 of 2022*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)Nos.253 and 255 of 2022
and
Cros.Obj(MD)Nos.32 and 29 of 2022
and
C.M.P.(MD)Nos.3400 and 3425 of 2022

S.A.(MD)Nos.253 and 255 of 2022

Dhanalakshmi

... Appellant in both
the appeals

Vs.

Ponnusamy (Died)

Paulraj

... Respondent in
SA(MD)No.253 of
2022

Ponnusamy (Died)

1.Paulraj

2.P.Annavi

3.Ponraj

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4.Balaji

5.Meenambal

6.Madhavi

7.Venkatesh

8.Satheesh

... Respondent in
SA(MD)No.255 of
2022

COMMON PRAYER : Second Appeals filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 11.01.2022 passed in A.S.Nos.46 and 47 of 2018 on the file of the learned II Additional District Court, Trichirappalli partly allowing the judgment and decree dated 31.07.2018 passed in O.S.Nos.837 and 840 of 2010 on the file of the learned II Additional Subordinate Judge, Trichirappalli.

For Appellant in : Mr.S.Vinayak
both the appeals

For Respondent in : Mr.V.Meenakshi Sundaram for
SA(MD)No.253 of Mr.S.Vinod Sathya Lazar
2022

For Respondents in : Mr.V.Meenakshi Sundaram for
SA(MD)No.255 of Mr.S.Vinod Sathya Lazar for R1
2022

No appearance for R6 to R8

R2 to R5 – Dispensed with



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Cros.Obj(MD)Nos.32 and 29 of 2022

Ponnusamy (Died)

Paulraj

... Cross Appellant in
both the cross
objection

Vs.

Dhanalakshmi

... Respondent in
Cros.Obj(MD)No.
32 of 2022

1.Dhanalakshmi

2.P.Annavi

3.Ponraj

4.Balaji

5.Meenambal

6.Madhavi

7.Venkatesh

8.Satheesh

... Respondents in
Cros.Obj(MD)No.
29 of 2022

COMMON PRAYER : Cross Appeals filed under Order 41 Rule 22
C.P.C., against the judgment and decree dated 11.01.2022 passed in

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A.S.Nos.46 and 47 of 2018 on the file of the learned II Additional District Court, Trichirappalli partly allowing the judgment and decree dated 31.07.2018 passed in O.S.Nos.837 and 840 of 2010 on the file of the learned II Additional Subordinate Judge, Trichirappalli.

For Cross Appellant : Mr.V.Meenakshi Sundaram for
in both the appeals Mr.S.Vinod Sathya Lazar

For Respondent in : Mr.S.Vinayak
Cros.Obj(MD)No.32
of 2022

For Respondents in : Mr.S.Vinayak for R1
Cros.Obj(MD)No.29
2022

No appearance for R6 to R8

R2 to R5 – Dispensed with

COMMON JUDGMENT

The Second Appeals are directed against the judgment and decree made in A.S.Nos.46 of 2018 and 47 of 2018 dated 11.01.2022 on the file of the II Additional District Court, Tiruchirappalli, partly allowing the judgment and decree passed in O.S.Nos.837 of 2010 and 840 of 2010 dated 31.07.2018 on the file of the II Additional Subordinate Court, Tiruchirappalli.



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2. Today, these cases are listed under the caption 'part heard cases'.

3. It is seen from the records that when the matters were taken up on 12.01.2026, at the request of the learned counsel appearing on either side, the matters were adjourned to 04.02.2026 finally. When the matters were taken up on 04.02.2026, again at their request, they were adjourned to 09.02.2026 finally. When the matters were taken up on 09.02.2026, since the learned counsel appearing for the appellant was not ready to proceed with the arguments and despite the matters having been adjourned twice finally, this Court directed the learned counsel appearing for the cross objector to commence the arguments. Accordingly, arguments on the side of the cross objector were commenced and thereafter, at the request of the learned counsel appearing for the appellant, the matters were adjourned to 17.02.2026.

4. When the matters are taken up today, the learned counsel appearing for the appellant would submit that he has filed a memo reporting no instructions from the appellants stating that he was unable to secure proper instructions to proceed with the matters. In the said memo,



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it is further stated that the appellant is undergoing medical treatment and that, in view of the complicated nature of the issues involved in the case, he is unable to proceed without proper instructions.

5. A medical certificate has also been produced along with the memo to show that the appellant has been diagnosed with Bronchial Asthma with Acute Pulmonary Edema and is undergoing outpatient treatment.

6. Considering the above facts and circumstances, this Court is constrained to observe that reporting no instructions at this stage of the proceedings, after the matters have been partly heard, cannot be countenanced. It is seen from the records that when the matters were taken up on 12.01.2026 and again on 04.02.2026, the adjournments were granted finally also at the request of the learned counsel appearing for the appellant and no representation was made on either of the said occasions that they were facing any difficulty in securing instructions from the appellant. Even thereafter, when the matters were taken up on 09.02.2026 and the learned counsel appearing for the appellant was not ready to



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proceed with the arguments, this Court directed the learned counsel appearing for the cross objector to commence the arguments and accordingly, arguments on the side of the cross objector were commenced and the matters were adjourned to today for arguments on the side of the appellant. In such circumstances, the belated reporting of no instructions by the learned counsel, after the matters have been adjourned finally on earlier occasions at the request of the appellant and after the matters have been partly heard, is not fair in the conduct of the proceedings.

7. Though the learned counsel appearing for the appellant is present and has reported no instructions by filing the above memo, it is seen that even according to the averments made therein, he has been able to contact the appellant's son and it is not the case of the appellant that the appellant is hospitalised or otherwise incapacitated from giving instructions. Despite the same, neither the appellant has chosen to appear in person nor has she made any alternate arrangement to proceed with the matters. Such conduct on the part of the appellant, coupled with the belated reporting of no instructions after the matters have been partly heard and adjourned finally on earlier occasions at their request, would



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amount to abuse of the process of Court.

8. In view of the above and in the absence of readiness on the part of the appellant to proceed with the arguments, this Court is left with no other option except to proceed further with the matters. Order XLI Rule 22(4) of the Code of Civil Procedure contemplates that even in a case where the appeal is withdrawn or dismissed for default, the cross objection, if any, may nevertheless be heard and determined. In the present case, arguments on the side of the cross objector have already been heard and the matters were pending for arguments on the side of the appellant. Therefore, these Second Appeals are dismissed with costs throughout and the matters are reserved for judgment insofar as the cross objections are concerned. Consequently, the connected Miscellaneous Petitions are closed.

17.02.2026

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To
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1. The II Additional District Judge, Tiruchirappalli.
2. The II Additional Subordinate Judge, Tiruchirappalli.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR, J

csn

Common Judgment made in
S.A.(MD)Nos.253 and 255 of 2022
and
Cros.Obj(MD)Nos.32 and 29 of 2022
and
C.M.P.(MD)Nos.3400 and 3425 of 2022

Dated : 17.02.2026