IN THE COURT OF THE ADDITIONAL SUB JUDGE, ARIYALUR

Present: Thiru.V. Raja, B.A., B.L.,
Additional Sub Judge, Ariyalur

Wednesday, the 19th day of August 2026

A.S.No.08/2026

(CNRTNAL02000063/2026)

1. The District Collector,
Collectorate Office,
Ariyalur District.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Udayarpalayam Taluk,
Ariyalur District.

3. The Tahsildar,
Tahsildar Office,
Sendurai Taluk,
Ariyalur District.

4. The Block Development Commissioner,
Block Development Commissioner Office,
Sendurai Taluk,
Ariyalur District.

5. The Block Development Officer,
Block Development Office,
Sendurai Taluk,
Ariyalur District.

6. The Union Engineer,
Union Office,
Sendurai Taluk,
Ariyalur District. .... Appellant/ 1 to 6 Defendants

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Additional Sub Judge, Ariyalur.

/Vs /

1. Kaliyaperumal, Aged 89/2026
S/o. Manickkam

2. Elangovan, Aged 47/2026
S/o.Chinnadurai

Both are residing at:
East street,
Pilakurichi village
Sendurai Taluk
Ariyalur District. …Respondents/Plaintiff & 7th Defendant

This appeal has been preferred by the Appellants/1 to 6th defendants against the Decree and Judgment dated 28.06.2024 in O.S.No.450/2019 passed by the Learned District Munsif-cum-Judicial Magistrate, Sendurai.

Between

Kaliyaperumal .... Plaintiff

And

1. The District Collector
2. The Revenue Divisional Officer
3. The Tahsildar
4. The Block Development Commissioner
5. The Block Development Officer
6. The Union Engineer
7. Elangovan …Defendants

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This Appeal suit came on 22.06.2026 before me for final hearing in the presence of Thiru.S.Mahendiran, the learned Advocate for the Appellant and Thiru.K.S.Sakthivel, the learned Advocate appeared for the 1st respondent and 2nd respondent party in person and this court after perusing the available materials, after hearing both side arguments delivered the following,

JUDGMENT

1. The appellant is the 2 to 6th defendants in O.S.No.450/2019 on the file of the Learned District Munsif-cum-Judicial Magistrate, Sendurai. The trial Court has partly decreed suit on 28.06.2024 and aggrieved by the same, the present appeal is filed by the appellants.

2. The brief facts of the plaint filed by the plaintiff is as follows:

2.1 The suit property belongs to the plaintiff and he is in his possession and enjoyment. Along the road side there is a newly constructed terraced house. North of the terraced house there is a tiled roof house. Both houses belong to the plaintiff. On the boundaries of his property, the plaintiff has erected cactus hedge. Further the plaintiff cultivates various trees including poovarasu and neem in the suit property. For both the houses, the plaintiff obtained electricity and drinking water connections. The plaintiff has been in possession and enjoyment of the suit property.

2.2 The plaintiff purchased middle and eastern portion of the property from Samikannu, Poorasamy and others on 04.08.1969 as thatched house. He purchased the western portion from Visalatchi W/o.Dharmalingam and others on 10.08.1970. By virtue of these sale deeds, the plaintiff owns A 0.13 cents of land described in the suit property.

2.3 The suit property A 0.13 cents is classified as Natham and it has been in continuous possession and enjoyment by the plaintiff and his predecessor in title. But in the Revenue records it has been erroneously classified as Tharisu. The defendants taking advantage of the same try to interfere the possession by excavating the soil and digging a pit saying that they are going to form irrigation channel. The steps taken by the plaintiff to prohibit this action before the Police department and the Revenue department fell in vain. Therefore this suit.

3. The gist of the written statement filed by the 5th defendants and adopted 1 to 4 and 6 defendants :

3.1 The averments made in the plaint are denied.

3.2 The suit property is government-owned poramboke land. Neither the plaintiff nor the individuals who allegedly sold the property to him ever held any right or title to it. All documents submitted by the plaintiff, including house tax and electricity bill receipts, are unrelated to the suit property. At no point of time, the plaintiff enjoyed the suit property. Anticipating that action would be taken to remove such an unlawful encroachment, the plaintiff has filed this suit.

3.3 If the plaintiff had indeed been in possession of the suit property with

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a valid right, he would have taken steps to assert his claim or obtain patta within the appropriate time. The defendants are currently taking measures to construct an irrigation channel on the suit property which is classified as government poramboke. The plaintiff is not entitled to any of the reliefs sought in the plaint, and the cause of action alleged therein is false. Therefore, the suit shall be dismissed.

4. <u>The following issues were framed by the trial Court:</u>

1. Whether the plaintiff is having valid and exclusive title to the suit property ?

2. Whether it is true that the suit property has wrongly been classified as " Tharisu" in the revenue records ?

3. Whether the plaintiff is entitled for the relief of Declaration, as sought for ?

4. Whether the suit property is in exclusive and lawful possession of the plaintiff ?

5. Whether the plaintiff is entitled for the reliefs of Permanent Injunction, as sought in the plaint?

6. To what other relief ?

<u>Additional Issue:-</u>

Whether the plaintiff is entitled to get the damages of Rs.5,000/-from the defendant?

5. <u>Witnesses and Exhibits:-</u>

Before the trial Court, the plaintiff was examined as PW1 and Exs.A1 to Ex.A15 were marked and Thiru.Chitaraman was examined as PW2 and

Thiru. Muthamizhselvan was examined as PW3.

On the side of the defendants, no one was examined and no exhibit was marked.

The court documents C1 to C3 were marked.

6. <u>Findings of the Trial court:</u>

The suit is partly allowed.

i) The suit is decreed and it is declared that the property portion marked as AE1D1C1B in the Commissioner's Report Ex.C2 belongs to the Plaintiff.

ii) A permanent injunction is granted, restraining the Defendants from trespassing upon the property portion marked as AE1D1C1B in Commissioner's Report Ex.C2 and restraining them from causing any interference to the Plaintiff's enjoyment of the property by planting hedges and trees.

iii) The suit is dismissed in so far as the claim for compensation.

iv) No costs.

v) The plan of the Court Commissioner Ex C2 shall be treated as part and parcel of the decree.

<u>7. Grounds Of Appeal:</u>

7.1 The decree and judgment of the lower court are against law, weight of evidence and probabilities of this case. The judgment and decree delivered by the lower court are contrary to legal positions and based on assumptions.

7.2 The lower court failed to note that, through document Ex. A-12 filed by the plaintiff, in which it was admitted that the suit property belongs to the government. The lower court has reached an erroneous conclusion regarding Document Ex. A-12, failing to consider that the burden of proving the case rests on the plaintiff and that the plaintiff cannot capitalize on deficiencies in the defendants' case.

7.3 The sale deeds filed by the plaintiff regarding the suit property are merely nominal documents. The lower court’s view that these documents establish the plaintiff's title despite the plaintiff failing to prove that the execution of said deeds held valid title is a position contrary to law.

7.4 The lower court failed to consider that, even if the house tax, water tax, and electricity bill receipts filed by the plaintiff were deemed to relate to the structures on the suit property, they pertained only to a recent, short term period and did not in any way substantiate the claim of right over the vacant land.

7.5 The disputed survey number remained government land both before and after the land tenure improvement scheme therefore, the petitioner is ineligible to claim rights or obtain a patta based on their documents.

8. <u>The Points for consideration in the Appeal are</u>:

1. Whether the judgment and decree of the trial Court requires interference or not?

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2. Whether the decree and judgment of the trial Court is to be set aside?
3. Whether the appeal is to be allowed or not?

9. To decide the points for consideration, this court analyzed the oral evidence and documentary evidence submitted before the trial court and considered the issues and findings of the trial court.

<u>10. Issue No.1:</u>

1.Whether the plaintiff is having valid and exclusive title to the suit property ?

10.1 It is the case of the plaintiff that the suit property SF.No.416/5 A 0.13 cents is his absolute property. To prove the same he has marked Ex.A1 and Ex.A2, the title deeds which are the sale deeds through which he purchased this suit property. The original sale deeds are not filed before this appellate court but it is mentioned in the Judgment of the trial court that the original sale deeds were marked before the trial court. The substituted certified copies are available in the records as Ex.A1 and Ex.A2. Ex.A1 is the certified copy of the sale deed dated 04.08.1969 through which the plaintiff purchased a portion of the suit property from 1.Masilamani padayatchi and his minor son, 2.Samikannu padayatchi, 3.Periyasami padayatchi 4.Poorasami Padayathci and his minor sons.

10.2 Through this sale deed the above mentioned persons sold a portion of the suit property described in the schedule of property to the plaintiff Kaliyaperumal. In the schedule of property in Ex.A1, the property has been described as நத்தம் சர்வே

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416/5 A0.26c ல் நாங்கள் பூர்வீகமாய் அனுபவிப்பது வீதிக்கு வடக்கு, ரோட்டிற்கு கிழக்கு, பூராசாமி தோட்டத்திற்கு தெற்கு. விசாலாட்சி அம்மாள் மனைக்கு மேற்கு இதில் கிழமேல் காலடி 19x156. Through this document the plaintiff has purchased 14 1/4 standard feet in east west and 117 standard feet in north south that is 1667 Sf from the above mentioned 4 persons, by converting the human foot into standard foot holding that human foot is 9” inches.

10.3 Ex.A2 is the certified copy of the sale deed through which the plaintiff purchased another portion of the suit property from 1.Dharmalingam padayatchi, 2.Visalatchi ammal, 3.Renganathan. 4.Kasinathan. In the schedule of property of Ex.A2, the property has been described as நத்தம் சர்வே 416/5 A 0.26c ல் இந்த சொத்தில் ஒருபகுதியும் வேறு சொத்தும் எங்களில் 2 நபர் பேரில் 13.07.1939 ல் கிரையம் பெற்று அது சப்ரி.ஆபிஸில் 1.295.295.1285/39– ஆக பதிவு செய்தும் நடுபகுதியை நாங்கள் பூர்வீகமாகவும் அனுபவிப்பது தங்கள் மனைக்கு கிழக்கு, வீதிக்கு வடக்கு, எங்கள் வேறு மனைக்கு மேற்கு, பூராசாமி தோட்டதிற்கு தெற்கு இதில் கிழமேல் காலடி 38x156.

10.4 Through this document the plaintiff has purchased 28 1/2 standard feet in east west and 117 standard feet in north south that is 3334.5 Sf. Therefore through both these Ex.A1 and Ex.A2 documents, the plaintiff has purchased

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1667+3334.5=5001.5 Sf that is A 0.11 1/2 cents only in SF.No. 416/5 out of A 0.26 cents.

10.5 The plaintiff has filed this suit for permanent injunction. The plaintiff has shown the description of the property as *"பிலாக்குறிச்சி கிராமத்தில் இருக்கும் சொத்து இதன் சர்வே எண் 416/5 இதன் விஸ்தீரணம் ஏ 0.13 செ, இதன் நான்கெல்லை விவரம் வீதிக்கும் வடக்கு, ரோட்டிற்கும் கிழக்கு, கலியபெருமாள் சொத்திற்கும் தெற்கு, செல்வமணி சொத்திற்கும் மேற்கு."* The plaintiff has purchased only A 0.11 1/2 cents through Ex.A1 and Ex.A2. In both Ex.A1 and Ex.A2 it has been shown that the total extent of S.F. 416/5 is A 0.26 cents and out of this A 0.26 cents only, the plaintiff through Ex.A1 and Ex.A2 has purchased A 0.11 1/2 cents.

10.6 But the plaintiff for his convenience has stated in the description of property in the plaint that the suit property S.F.416/5 is of A 0.13 cents. The plaintiff has mentioned the suit property as S.F.416/5 A 0.13 cents within the mentioned four boundaries. The plaintiff has not stated that this A 0.13 cents is out of total extent of A 0.26 cents in S.F.416/5. Further the measurements shown in Ex.A1 and Ex.A2 are also not mentioned in the description of suit property in the plaint. It is not known how the plaintiff has arrived to a calculation that the suit property in S.F.416/5 is A 0.13 cents and he purchased the extent of A 0.13 cents in S.F.416/5.

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10.7 For a sake of arguments, if it is considered that the human foot mentioned in Ex.A1 and Ex.A2 is of 10’’ inches, then the plaintiff purchased human feet 19x156= standard feet 16x130=2080 SF through Ex.A1 and 38x 156 human feet=32x130= 4160 SF through Ex.A2 to a total extent of 6240 SF that is 0.14 ¼ cents, which is more than what mentioned in the schedule of property. In both aspects, by calculating either 9” inches or 10” inches for a human foot, the total extent purchased by the plaintiff through Ex.A1 and Ex.A2 is not tallied with the description of property mentioned in the plaint as A 0.13 cents equal to 5662 sf. Therefore it cannot be said that the plaintiff through Ex.A1 and A2 purchased 0.13 cents in S.F.416/5. He has failed to prove the same through his documentary evidence. Therefore the plaintiff cannot be said to have exclusive title over the extent of A 0.13 cents in S.F.416/5. This issue No.1 is answered accordingly.

11. Issue No.4:

2.Whether the suit property is in exclusive and lawful possession of the plaintiff ?

11.1 The plaintiff has sought for permanent injunction for 0.13 cents. It is mentioned as SF. 416/5 A 0.13 cents and not 0.13 cents in SF.416/5 out of 0.26 cents. It is clearly mentioned in Ex.A1and Ex.A2 the purchase deeds of the plaintiff that the total extent of SF.416/2 is 0.26 cents. When the plaintiff has purchased a part of the property with specific measurements the same should have been mentioned specifically in the plaint schedule. The plaintiff cannot be permitted to say the suit property as SF.No. 416/5 A 0.13 cents approximately. When the purchase deeds of the plaintiff contains specific measurements, this court cannot understand the reason behind the plaintiff's intention to show the description of the property in the plaint by describing the same with SF.No and four boundaries by showing the extent of the suit property approximately as A 0.13 cents without any basis.

11.2 The plaintiff himself marked Ex.A4 patta in his name which shows S.F.416/5 was subdivided and a new subdivision was formed in the name of plaintiff as S.F.416/10 H 0.01.57 ares. This natham patta was issued in 2011 itself to the plaintiff. But no steps have been taken by the plaintiff till the filing of this suit in 2019 to clarify the same.

11.3 The plaintiff has marked Ex.A12 which is the settlement register which shows that S.F.416/5 A 0.26 cents is classified as Anatheenam. Likewise the plaintiff has marked Ex.A13 the A' register in which S.F.416/5 A 0.10.5 ares that is A 0.26 cents is shown as Tharisu. From Ex.A12, A13 it is elucidated that S.F.416/5 is of the extent A 0.26 cents which is shown as government property from the origin in revenue records in which the plaintiff has purchased 0.11 1/2 cents. When the plaintiff purchased the property through registered sale deeds with measurements and claims right by way of the measurements in the sale deeds through Ex.A1and Ex.A2, the measurements would have been shown in the plaint schedule property and the suit property would have measured as per the measurements in the sale deeds.

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11.4 The plaintiff has measured the property with the help of the surveyor. But the plaintiff has not filed the petition for appointment of commissioner to identify or to measure the property as per the measurements in the sale deeds. The plaintiff has cleverly drafted the plaint as if he is in possession of A 0.13 cents an extent more than that of what he purchased through Ex A1 and Ex.A2 by suppressing the measurements in his sale deeds and in order to show that he is in possession of 0.13 cents, has filed the petition for the appointment of the commissioner.

11.5 The commissioner appointed also, without measuring the properties as per the measurements in the title deeds of the plaintiff that is as per Ex.A1 and Ex.A2, measured the property on ground corroborating the same with that of A 0.13 cents mentioned in the plaint. Based on the report of the commissioner, the learned trial Judge has also come to a conclusion, that the plaintiff is in possession of A 0.13 cents. The report of the commissioner reveals that the plaintiff is enjoying 492 sm (ie) 5300 SF which is more than that what he purchased through Ex.A1 and Ex.A2.

11.6 The learned Judge has come to the conclusion that the plaintiff is in possession of 0.13 cents based on the commissioner's report. But this court does not concur with the decision of the learned trial Judge in this issue. When the property is not shown in the plaint with measuments found in purchase deeds and measured according to the plaint schedule, it cannot be said that the plaintiff is in lawful possession of the plaint schedule property. It may be true that the plaintiff is in

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possession of the property that he purchased and has been enjoying the same by constructing houses. But the real question involved is, how much extent the plaintiff is entitled. When the property purchased by the plaintiff is not identified by the measurements as found in his sale deeds and the plaint property shows excess extent and the same is shown as Tharisu in revenue records, the plaintiff cannot be said to be in lawful possession of the suit property. This issue is answered accordingly.

12. Issue No.2

Whether it is true that the suit property has wrongly been classified as " Tharisu" in the revenue records ?

12.1 The plaintiff purchased a portion of property in SF.416/5 with measurements. Out of 0.26 cents he purchased 19+38= 57 human feet in east west and 156 human feet in north south. If are consider as 9" inches for human feet, the extent of property purchased by the plaintiff is as per standard feet 42.75x117= 5002 SF (i.e)0.11 ½ cents. If we consider as 10" inches for human feet, then the extent is, 47.5x130= 6175 SF (i,e) 14.20 cents. But the plaintiff has shown the plaint property as A 0.13 cents. In both the aspects, considering 9" or 10" inches per human foot, the description of property in the plaint is not tallied with that of properties purchased in Ex.A1 and Ex.A2.

12.2 In Ex.A1 and Ex.A2 the suit property is mentioned as natham. Natham property does not vest with the Government. It is the property of public for

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residence. The plaintiff has been enjoying this property from the date of purchase from the year 1969. EB bills and house tax receipts are also marked as Exhibits. Therefore this property cannot be considered as Tharisu. Further all other subdivisions in S.F.416 are also classified as Natham only. When the entire S.F.416 is classified as natham and the documents of sale deeds have been registered mentioning the same as natham, this property cannot be held as Tharisu or Anadheenam. This issue answered accordingly.

13. Issues No.3 & 5

3.Whether the plaintiff is entitled for the relief of Declaration, as sought for ?

5.Whether the plaintiff is entitled for the reliefs of Permanent Injunction, as sought in the plaint?

13.1. The plaintiff has filed this suit for permanent injunction only. The Court fee is also paid under section 27(c) for permanent injunction only. But the learned trial Judge has framed an issue for declaration and answered the same based on the commissioner's report and declared that AE1D1CB portion mentioned in Ex.C2, belong's to him. Further more SF.416/5 has been subdivided and patta has been issued for the plaintiff for SF.416/10 which is evident from Ex.A4 marked by the plaintiff himself. As per Ex.A12 and A13, S.F.416/5 remains Tharisu. The plaintiff has not asked for any declaration of title nor paid any court fee. Without prayer, without Court fee, the learned trial Judge has granted the relief of declaration which

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is erroneous.

13.2 A declaratory relief and a permanent injunction can be granted only to the specific extent of property and for the property properly identified. Here the property is not identified as described with the measurements in the plaint. Showing suit property as SF.416/5 A 0.13 cents is not sufficient to grant declaration and injunction, that too, when the part of the property in SF.No. 416/5 is purchased by the plaintiff through sale deeds with specific measurements shown in the sale deeds.

13.3 The learned trial Judge has committed error in granting declaration which is not sought for and permanent injunction for the property which is not identified with specific measurements. The decision of the trial Judge is in the opinion of this court is to be interfered and these issues are answered accordingly.

13.4 Further the plaintiff has sought to declare the entry in revenue records as Tharisu as null and void. As per section 14 of Patta pass Book Act, the Civil court cannot declare the entries in revenue records as wrong and order to rectify the same. The Civil court can declare only the right and title of the property between the rival candidates. Therefore such a declaration relief is also not available to the plaintiff.

14. Issue No.6:

To what other relief ?

The above issues have been answered against the plaintiff. Therefore the plaintiff is not entitled to any other relief. This issue is answered accordingly.

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15. Additional Issue :

Whether the plaintiff is entitled to get the damages of Rs.5,000/-from the defendant?

15.1 The 1 to 6th defendants are the revenue authorities who dug the pit for public welfare scheme to form drainage system or irrigation channel. It is decided that this property on which the pit is dug is not the property of the plaintiff and he is not in possession of the same. When the revenue authorities have done their duty in the process established by law, no one can object the same and sue for damages. The plaintiff has failed to prove that D1 to D6 dug a pit in his property. The report of the commissioner also reveals the same, that the plaintiff is enjoying 492 sm and ridges or border line space of 34.88 sm is with the government which is mentioned as ditch area. Therefore the plaintiff is not entitled for any damages. This issue is answered accordingly.

16. Conclusion :

16.1 The learned trial Judge has not taken in to the account of the measurements in the sale deeds Ex.A1 and Ex.A2 and the total extent and identity of the suit property and came to a wrong conclusion based on commissioner's report that the entire suit property in SF146/5 is of A 0.13 cents extent and belongs to plaintiff and he is in possession of the same.

16.2 But the plaintiff has purchased some extent in SF.416/5 as per Ex.A1 and Ex.A2. He is not entitled to more than that. Already the commissioner has reported

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that 492 sm that is 5330 SF is in enjoyment of the plaintiff. Further he reported that the ridges of western side and southern side are of the extent 375 Sf which is utilized for the Government for public purpose. This property cannot be considered as in possession of the plaintiff. The person who is having the plot abutting the road can use the front portion for ingress and egress to his plot. That does not mean that ridges of these roads are in possession of the person having plot abutting the road. The plaintiff is in possession of the property what he purchased through his title deeds only. He cannot claim any right more than that by preventing the revenue authorities from doing their duty for public welfare. Therefore the decree and judgment passed by the trial court requires interference and is set aside and this appeal is allowed.

17. In the result, the Appeal suit is allowed. The Decree and Judgment passed in O.S.No.450/2019 dated 28.06.2024 by the learned District Munsif-cum-Judicial Magistrate Court, Sendurai is set aside and OS.No.450 of 2019 is dismissed. Considering the nature of the suit there is no order as to costs.

Written by me typed the typist, corrected and pronounced by me in the open court on this the 19th day of August 2026.

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Appellant side Witness & Exhibits : Nil
Respondent side Witness and Exhibits : Nil

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Copy to :

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