



OS.No.319/2024
dt : 28.07.2026

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF MADURAI TOWN

Present: Tmt. B.Dhivya., B.A., L.L.B.,
IV Additional District Munsif, Madurai Town,
Principal District Munsif, (FAC), Madurai Town
Tuesday, this the 28th day of July 2026
O.S.No.319/2024

(CNR.No.TNMD0A0007782024)

1. Krishnan
2. M.Vellaiammal (Died) **
3. M.Rajendran,
4. M.Manoharan
5. M.Meenammal
6. S.Illanchiyam
7. R.Kalaiselvi
8. R.Packialakshmi

...Plaintiffs

/Versus/

1. S.Baburajan
2. B.Mary
3. V.Thulasi (Died) ***
4. C.Vargheese
5. S.Joseph *
6. Mehartaj *
7. Jahara Begam *
8. Selva Mary *
9. Balomi *
10. Sindhu ***
11. Vidya ***

...Defendants

* Amended as per order dated 04.07.2007 in I.A.No.464/2007

** Amended as per order dated 19.12.2024 in I.A.No.1/2024

*** Amended as per order dated 19.03.2025 in I.A.No.3/2025



This suit came up before this court for final hearing on 08.07.2026 in the presence Thiru.T.R.Jeyapalam Learned Counsel for the Plaintiffs and Thiru.A.R.Sethupathy the Learned counsel for the defendants and after perusal of entire material records and evidence placed before this court and having stood over for consideration till this date, this court delivers the following :

JUDGMENT

The suit has been instituted seeking the relief of declaring that the plaintiff are the absolute owners of the property described in the schedule of property and consequently, granting a permanent injunction restraining the defendants their agents, their servants and their men to disturb or intergere with the plaintiff's peaceful possession and enjoyment of the suit property in any manner and for cost of the suit.

1) THE AVERMENTS IN THE PLAINT IN BRIEF :

1.1) The Plaintiff stated that, the shedule of property land is in patta number 102 of Ramankulam village, which stands in the name fo the 1st plaintiff and his elder brother K.Mai who died on 16.02.1997. The 2 to 8 plaintiffs are his legal heirs. The 2nd plaintiff is the wife of late.K.Mani and the plaintiffs 3 to 8 are his tow sons and four daughters. The schedule mentioned land was formerly owned by K.Subbaiah Konar son of Karuppana Konar. The said K.Subbaiah Konar sold it to one R.Kandasay Thevar uder the Registered Sale deed dated 19.01.1968 for consideration of Rs.1500/- subsequently the said R.Kandasamy Thevar had sold portions thereof to various persons keeping for himself only a portion measuring Acre 2-73. Some of the purchasers hd transferred their respective lands to other persons under the registered deeds. The then owners hd obtained Pattas for their respective lands fro the Revenue



Department (Patta No.73 to 78) in about 1973 after necessary sub division. Subsequently in 1982 – 1983 the 1st plaintiff and his elder brother K.Mani hd purchased the either 8 acres and 73 cents from the then owners under 6 Registered sale deed.

1.2) The plaintiffs further stated that, in 1987 under the Updating Registry Schemes of the Government of Tamilnadu the land was surveyed and measured No.1/2 measuring Hectare 3-53-5 (Acre 8.73) was issued to the 1st plaintiff and his brother K.Mani. The said patta itself contains the sketch for the land with details of survey stones to be maintained by the plaintiff and K.Mani.

1.3) The plaintiff further stated that, the 1st plaintiff and his elder brother K.Mani had been cultivation the lands as and when possible with dry cops like cholm. They have been granted pattas from time to time during Zamabandi by the Revenue Department. The last of such patta was granted on 23.04.1998. The said patta is submitted. The plaintiffs had been paying the kist for the said land all along. The plaintiffs are thus in peaceful and lawful possession and enjoyment of the land described in the schedule of property.

1.4) The plaintiff further submitted that, they have clear title to the land. The plaintiff and their predecessors had been in continuous possession and enjoyment thereof as afore said for several decades. By long uninterrupted and continuous possession for more than statutory period, the plaintiffs have perfected their title to the land by prescription and adverse possession also.

1.5) The plaintiff further submitted that, it appears that the 1st defendant is a land broker and that the defendants 2 to 4 are his close relatives and friends. Some brokers (probably men of the 1st defendant) approached the 1st plaintiff some months back and requested the plaintiff to arrange to sell the schedule



mentioned and to them so that they may earn considerable amount by resale of the same into plots. The 1st plaintiff did not agree to sell the schedule mentioned land.

1.6) The plaintiff further stated that, enraged by this refusal, it appears that the defendants 1 to 4 have colluded and conspired together and fabricated forged some sale deed etc. fraudulently in on unlawful and illegal manner about a month age I.e in May 1998 with malafide and ulterior designs. The plaintiffs submit that the defendants have no manner to right, title to or possession of the suit property and all the documents created in about May 1998 must be false, and fraudulently and they cannot have any legal effect, nor can they affect the right, title or interest of the planintiffs in any manner. However the defendants are now threatening to interfere with the plaintiff's possession and enjoyment of the suit. The defendant seem to be powerful and influential people. Further the defendants seem to have some antisocial elements at their back and call. They are also attempting to cast a cloud upon the title of the plaintiffs by tempering Revenue records also.

1.7) The plaintiff further stated that, Coming to known of the unlawful and fraudulent and conduct of the first defendant and his men, the first plaintiff had issued the Registered Advocate Notice dated 18/06/1998 to the first defendant requesting him inter alia not to attempt to interfere with the plaintiffs' peaceful possession and enjoyment of the land in question. The postal acknowledgments are yet to be received. There is no reply. However the first defendants and his men are not in a mood to heed to it. The defendants and their men may attempt to interfere with the plaintiffs' possession at any time.

1.8) The plaintiff further stated that, In these circumstances, the plaintiffs files this suit for declaration that they are the absolute owners of the



schedule mentioned land and for consequential injunction restraining the defendants and their men, agents, and servants, from interfering with the plaintiffs' peaceful possession and enjoyment of the schedule mentioned property in any manner whatsoever and for costs.

1.9) The plaintiff further stated that, * The defendants 1 to 4 appear to have created sale deeds in favour of defendants 5 to 9 in respect of small portions of the suit property and on that basis, the defendants 5 to 9 are threatening to interfere with the plaintiffs' possession and enjoyment. As they claim under defendants 2 to 4, they have no right to the property and have no right to interfere with the plaintiffs' possession and enjoyment. Hence, a decree has to be passed binding on defendants 5 to 9 also and so, they had been impleaded in the suit.

*(Amended as per order dated 04/07/2007 in I.A. No. 464/2007)

1.10) The plaintiff further stated that, **During pendency of this suit, the second plaintiff died on 13/05/2011 leaving behind the plaintiffs 3 to 8 as her legal heirs (sons and daughters). To that effect, the plaintiffs have filed a memo on 01/10/2024. The said memo was recorded on 01/10/2024 and the plaintiffs 3 to 8 are recorded as legal heirs of the deceased second plaintiff.

**(Amended as per order dated 19.12.2024 in I.A. No.1/2024)

1.11) The plaintiffs further stated that, *** During pendency of this suit, the third defendant died on 09/08/2024 leaving behind his wife namely, Sindhu (tenth defendant) and daughter namely, Vidhya (eleventh defendant). As per order in I.A. No. 2 of 2024 dated 19/12/2024, they were impleaded as defendants 10 and 11 as legal heirs of third defendant.



*** (Amended as per order dated 19.03.2025 in I.A. No.3/2025)

2. THE AVERMENTS IN THE DEFENDANTS WRITTEN STATEMENT IN BRIEF:

2.1) The 1st defendant has filed a Written Statement. Defendants 2 to 4 and Defendants 5 to 11 have adopted and accepted the Written Statement filed by the 1st defendant. The defendants stated that, the alleged patta referred in paragraph 3 of the plaint had been obtained by the plaintiffs fraudulently behind the back of the real owners. As such the plaintiffs cannot claim any right what so ever under the said patta. Even otherwise patta itself cannot be treated as a conclusive evidence to decide the Title. The allegations contra in paragraph 3 of the plaint are denied as false.

2.2) The defendants stated that, the allegation in paragraph 4 of the plaint that the suit x schedule properties formerly owned by one K. Subbiah, S/o. Karrupiah Konar is false to the extreme. Equally the alleged sale deed dated 19-1-68 alleged to have been executed by the said K. Subbiah Konar in favour of Kandasamy Thevar is yet another created document. It is submitted that the alleged purchaser from the said Kandhasamy Thevar also had no right over the properties. perties. the Plaintiffs claim rights through the alleged sale deeds, executed by the persons who had no valid title, they have to be non-suited.

2.3) The defendants stated that, the patta numbers 73 to 78 alleged to have been obtained by the alleged purchasers during 1973 cannot confer any title. It is further submitted that all the sale deeds in favour of the plaintiffs are invalid documents. The Revenue records brought in to existence basing on the said invalid sale deeds, cannot confer any title.

2.4) The defendants stated that, possession of the property never



passed on to the plaintiffs or to their alleged predecessors, even though they were engaged in creating documents. A perusal of the various sale deeds will reveal that all of them were brought in to existence on a single day and none of the sale deeds reveal the predecessors - in -title and as to how the alleged predecessors had acquired rights over the property. The alleged order dated 18-4-44 referred to in the sale deed dated 19-1-68 is yet to see the light of the day.

2.5) The defendants stated that, during 1956 the said K. Subbiah Konar son of R. Karuppana Konar was serving as manager under late Sesu Ayyer, the real owner of the property, It is submitted that the ownership of the property has been finally decided in favour of the said Sesu Ayyer under the Inam Abolition Act. It transpires that taking advantage of his position as manager, Subbiah Konar had created so many documents with the connivance of one Alagupillai, the then Karnam of the village. As such the various sale deeds referred to in the plaint are not true documents for consideration. Equally all the other Revenue Records referred to are not binding on the real owners. Since they have been created fraudulently based on the cooked-up sale deeds.

2.6) The defendants stated that, the allegations in paragraph 5 of the plaint are false to the extreme. The allegation that the 1st plaintiff and his elder brother K. Mani had purchased the entire 8 Acres 73 cents is yet another & tissue of false hood. It is submitted that the six sale deeds referred to in the plaint cannot confer any title on the plaintiffs, since the vendors therein themselves had no title to pass-on. Hence the entire claim of the plaintiffs have to be engatived.

2.7) The defendants stated that, the allegations in paragraph 6 of the plaint are quite unsustainable. Neither the plaintiffs nor their vendors were in



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possession of the properties at any point of time. It transpires that the plaintiffs had obtained pattas under the UDR scheme by exercising influence that too based on the unsustainable Documents referred to above. The plaintiffs were never in possession of the properties and there was no occasion for surveying. As such the pattas referred to in paragraph 6 of the plaint are not relevant to the suit properties. In any event, the plaintiffs ought to have obtained the same basing on the unsustainable sale deeds. In this view the alleged pattas cannot cloth the plaintiffs with Title over the property.

2.8) The defendants stated that, in paragraph 7 of the plaint have been made without any regard for truth. It is submitted that the plaintiffs or their alleged predecessors-in-interest were never in possession of property at any point of time. It is submitted that Alagupillai, the village officer of Ramankulam only created all the Revenue Records much against the facts.

2.9) The defendants stated that, the Revenue Records created by the plaintiffs for proving possession are quite un-reliable, Actually the plaintiffs had neither possession nor title over the property. In these circumstances, the claim of the plaintiffs that they were in peace full and lawfull possession and enjoyment is false to the extreme. In any event the pattas and kist receipts referred to, do not relate to the property Even otherwise, those documents, having been brought in to existence by fraudulent meanse, can not be relied upon as proof for title and possession.

2.10) The defendants stated that, the entire Public in the village revolted against the unlawful activities of the said village officer Algupillai. The Revenue Records referred by the plaintiffs having been brought in to existence under the above shady transactions cannot be realied upon. In the present case, the defendants have produced the records right from the order of the settlement officer. A comparison of the records of the plaintiffs and defendants itself will



reveal the fraudulent nature of the plaintiffs in creating their records.

2.11) The defendants stated that, the allegation in paragraph 8 are denied as false. The plaintiffs do not have any title. Neither the plaintiffs nor their alleged predecessors-in-interest were in possession or enjoyment of the properties. The plaintiffs having pleaded a definite case of title and lawful possession, cannot be allowed to turn around and plead Adverse possession, which is mutually contradictory. Even otherwise the plaintiffs cannot claim rights under Adverse possession as well, as at no point of time they had been in possession either in the past or in the present.

2.12) The defendants stated that, the allegations in paragraph 9 of the plaint are imaginary. Neither the Defendants nor anybody else representing the Defendants approached the plaintiffs for getting sale of the suit properties. It is further submitted that since the Defendants directly approached the true owners who were in possession, there was no occasion for approaching the plaintiffs with a request to sell the suit properties. The plea about the alleged request to sell is nothing but a colourable pleading.

2.13) The defendants stated that, the allegations in paragraph 10 of the plaint are damaging in nature besides being false. The Defendants have obtained sale deeds from the true owners and there is no occasion for any fraudulent play or collusion as alleged in the plaint. The sale deeds in favour of the Defendants have been executed by the vendors for consideration and the plaintiffs have no right to raise their accusing finger. The Defendants further submit that the plaintiffs have no right or title over the properties and the plaintiffs did not have possession also.

2.14) The defendants stated that, the Defendants having purchased the properties through sale deeds for consideration, executed by the title holders, put in possession of the property, they have to be presumed to be the owners of



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the property in right full possession. The alleged threat by the Defendants is nothing but a cock and bull story. The Defendants being in lawful possession, in pursuance of the title deeds, there is no question of interference with the alleged possession of the plaintiffs. The plaintiffs having based their claim on unsustainable documents, created through unlawful ways, have no right to charge the Defendants and to question the documents in their favour.

2.15) The defendants stated that, the allegations in paragraph 11 of the plaint themselves will prove the malafide nature in the claim of the plaintiffs. The plaintiffs having issued a notice, ought to have --- waited at least for a reasonable time till the receipt of reply. On the other hand, as admitted by themselves, they had filed the present suit with false and vexatious allegations even before the receipt of the acknowledgments. It is quite evident that the very issue of notice is nothing but a creation of one more document to be included in the list of Documents.

2.16) The defendants stated that, the allegations in paragraph 12 of the plaint are nothing but tissues of falsehood. The only aim of the plaintiffs is to obtain an interim order and to cause worry to the plaintiffs with an * ultimate aim of making wrong full gains. The plaintiffs are not entitled for the relief of declaration or injunction.

2.17) The defendants stated that, the plaintiffs in their : anxiety to obtain an interim order, rushed to the court with a false pleading as if they are in physical possession of the property. On the very first day, when the matter was posted for appearance, the Defendants appeared and filed a petition for appointing a commissioner to note the physical features which will themselves disprove the claim of the plaintiffs. Much later, the plaintiffs, admitting the facts that they are not in possession, came with a petition to amend the suit with a prayer for recovery of possession. This conduct itself will prove the malafide



intention of the plaintiffs.

2.18) The defendants stated that, the plaintiffs seeking reliefs of declaration and injunction have come to the court with unclean hands. The allegations in paragraphs 13 and 14 are denied as false. The plaintiffs who admit the existence of sale deeds and physical possession in favour of the defendants, ought to have prayed for declaration to set aside the sale deeds, by paying advelarum court fees, since the said deeds are stumbling blocks for the prayer of Declaration. In this view, the suit has not been properly valued and proper court fees has not been paid. As such the suit as framed is not sustainable.

2.19) The defendants stated that, the cause of action and the dates pleaded in the plaint are all incorrect and false. The plaintiffs have no cause of action at all of file the present suit. The plaintiffs are not entitled for the relief of declaraction or injunction. The records available in court themselves will prove that the plaintiffs have suppressed material facts and pleaded in a misleading way. As such the entire proceedings is vexatious in nature. The suit has to be dismissed in liminie by awarding compensatory costs to the Defendants. Wherefore it is prayed that this Court may be pleased to dismiss the suit with costs and thus render justice.

3. THE AVERMENTS IN THE 7th DEFENDANT WRITTEN STATEMENT IN BRIEF:

3.1) The 7th defendant has filed a Written Statement. Defendants 5, 8, 9 have adopted and accepted the Written Statement filed by the 7th defendant. The defendants stated that, the 7th defendant has purchased a portion of the house site in the lay-out and on and from the date of purchase she is alone in physical possession and enjoyment of the same. The Defendants 1 to 4 were in possession and enjoyment of the properties before the purchase by various



purchasers.

3.2) Further the defendants submitted that, the defendants have purchased the properties from the original owner and put in their enjoyment by dividing the same in to various plots There are very many purchasers of various plots All the purchasers are in possession of their respective demarkated portions like the Defendant 5 to 9. Some of the purchasers raised constructions also white some constructions are in progress. It is quite un-understandable as to how the Plaintiffs claim that they are in physical possession and enjoyment of the Suit properties. It is enough to state that the Defendants 5 to 9 have purchased the properties from the real title holders for valuable consideration. The Defendants 5 to 9 are in physical possession of the properties purchased by them. As such the Plaintiff is not entitled for any Relief what-so-ever.

3.3) The defendants further submitted that, the present Suit having been filed for declaration and consequential injunction is not sustainable. The Plaintiffs have not paid proper Court Fees. The Suit properties are worth about Rs.50,00,000/- and more. As such this Court does not have pecuniary Jurisdiction to try the Suit. The Plaintiff ought to have filed the Just for recovery of possession The Suit as framed is not sustainable. The Plaintiffs have made false and vexatious averments knowing them to be false As such the Plaintiffs have to be directed to pay compensatory costs under Section 35(A)C.P.C. Hence, prayed that this Court may be pleased to dismiss the suit with costs and thus render justice.

4. ISSUES :

The following issues were originally framed by the Hon'ble Principal Sub Court on 13.01.2003. Subsequently, on 15.10.2025, this Court recast the said issues and framed the following additional issues :



- (i) *Whether the plaintiffs and their predecessors have valid title over the suit property?*
- (ii) *Whether the plaintiffs and the predecessors perfected their title by prescription and adverse possession ?*
- (iii) *Whether the plaintiffs are in the possession of the suit property ?*
- (iv) *Whether the plaintiff is entitled to the relief of declaration as prayed for ?*
- (v) *To what other reliefs the plaintiff is entitled to ?*

Additional Issues

- (i) *Whether the plaintiff has to seek for relief of declaration against the sale deed said to be created in the month of May 1998 ?*
- (ii) *Whether the suit property is house site ?*
- (iii) *Whether the plaintiff has property valued the claim and has paid the court fee accordingly ?*
- (iv) *Whether the plaintiff has to seek the relief of recovery of possession ?*
- (v) *Whether the defendants interfered the possession of the plaintiffs ?*
- (vi) *Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for ?*

For the sake and convenience of this court on today (28.07.2026) recasted the issues as follows

- (i) *Whether the plaintiffs and their predecessors have valid title over the suit property?*
- (ii) *Whether the plaintiffs and the predecessors perfected their title by prescription and adverse possession ?*
- (iii) *Whether the plaintiff has to seek for relief of declaration against the sale deed said to be created in the month of May 1998 ?*



- (iv) *Whether the plaintiffs are in the possession of the suit property ?*
- (v) *Whether the plaintiff has to seek the relief of recovery of possession ?*
- (vi) *Whether the plaintiff is entitled to the relief of declaration as prayed for ?*
- (vii) *Whether the defendants interfered the possession of the plaintiffs ?*
- (viii) *Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for ?*
- (ix) *To what other relief plaintiffs are entitled ?*

5. PLAINTIFF SIDE EVIDENCE ADDUCED :

(i) On the side of the plaintiff, the 1st plaintiff Thiru.Krishnan had filed proof affidavit in lieu of chief examination and was examined as PW1. The Documentary evidence let in and marked as Ex.A1 to Ex.A75 were marked.

6. DEFENDANTS SIDE EVIDENCE ADDUCED

(i) On the side of the defendants, the 1st defendant Thiru.Baburajan had filed proof affidavit in lieu of chief examination and was examined as DW1. The Documentary evidence let in and marked as Ex.B1 to Ex.B34 were marked.

7. BOTH SIDE ARGUMENTS

7.1) The learned counsel appeared for the plaintiff argued that, the suit was filed by the plaintiff seeking declaration and consequential injunction against the defendants regarding the suit property. There was no dispute in the extent of property. The 1st plaintiff and the brother of the 1st plaintiff namely Mani, purchased the property. Mani died on 16.02.1997 and 2 to 8 plaintiffs were the legal heirs of Mani.



7.2) The suit property was originally owned by one Subbaiah Konar. The said Subbaiah Konar sold the suit property to Kandhasamy Thevar on 19.01.1968. Ex.A1 is the original title deed in the name of Kandhasamy Thevar. In Ex.A1, it is mentioned as by the assignment order in the year of 1944. The Subbaiah Konar entitled to the property. But, the said assignment order was missed. The total extent of the suit property was 8 acres and 75 cents. Through Ex.A3 Kandhasamy sold the extend of 1 acre 50 cents to one Pitchai Raju, and through Ex.A4 Kandhasamy sold property to the extent of 1 acre 50 cents to one Radhakirhsnan.

7.3) Through Ex.A5 Kandhasamy sold 1 acre of the property to one Alagarsamy and through Ex.A6 Kandhasamy sold the property to an extent of 1 acre to one Lakshmanan and through Ex.A7 Kandhasmy sold the property to an extent of 1 acre to one Paramasivam and through Ex.A8 property was sold to an extent of 2 acres 75 cents to Mani Nadar. Parent deed of the property was given to Mani Nadar. In the year of 1982 through Ex.A9 to Ex.A13 the 1st plaintiff herein purchased properties from Pitchai Raju, Radhakrishnan, Alagarsamy, Lakshmanan.

7.4) He also contended that, the property purchased by Paramasivam was sold to one Saroja and from Sarjoja, the 1st plaintiff purchased the property. There by the 1st plaintiff is entitled to the 6 acres of the suit property and Mani Nadar was entitled to the remaining 2 acres 75 cents. By the above title deeds the 1st plaintiff and the legal heirs of Mani Nadar who are the 2 to 8 plaintiffs are entitled to the right in suit property. He also contended that, Ex.A16 to Ex.A21 were marked on the side of plaintiffs to prove their possession in the suit property which are all the patta Passbooks in the name of the vendors of the plaintiffs.



7.5) Ex.A22 which is the patta in the name of 1st plaintiff and Ex.A23 is the Patta in the name of Mani Nadar. After UDR settlement Joint Patta was issued in favour of plaintiffs which is marked as Ex.A24 and Ex.A25 which is the joint patta issued in Jamabanthi in favour of the plaintiffs. Also the plaintiffs were doing agriculture in the suit property to prove the same Ex.A28 to Ex.A30 was marked in the suit which is the Adangal in the name of 1st plaintiff and the brother of 1st plaintiff Mani. Ex.A36 is the Citta in the name of Mani Nadar and 1st plaintiff.

7.6) Ex.A37 to Ex.A39 were the kist receipts in the name of Alagarsamy and Ex.A40 is the Kist receipt in the name of Lakshmanan and Ex.A41 is the kist receipt in the name of Pitchai Raja and Ex.A42 is the kist receipt in the name of Balakrishnan and Ex.A43 to Ex.A51 were the kist receipts in the name of 1st plaintiff and Mani Nadar. By those exhibits the plaintiffs have proved that, both the vendors of the plaintiffs and the plaintiffs were in the possession of the suit property. Even, after the institution of the suit the kist receipts were paid by the plaintiffs which are marked as Ex.A60 to Ex.A63.

7.7) The plaintiffs counsel argued that, defendants are claiming title from one Shesayyer through Ex.B1 to Ex.B4. In Ex.B1, how the title devolves to Shesayyer was not mentioned clearly and only it is mentioned as Shesayyer executed will deed to his brother's sons and they were given power of attorney to one person through him Ex.B1 to Ex.B4 were created. They claimed that, the Shesayyer has ownership through settlement Patta regarding the suit property and also pleaded the oral partition but, the defendants not proved the oral partition and has let no evidence with regard to the oral partition.

7.8) He vehemently contended that, the Ex.B6 which is the register marked by the defendants in their side in which it is mentioned as not to be



produced in any court of law as it is only tentative. In that register Shesayyar name was mentioned. The alleged settlement order was marked Ex.B8 which is not legible in character and also there is no specific mentioning about the suit survey number which is alleged to be allotted to Shesayyar. Even, Ex.B5 produced by the defendants which is the will deed, the defendants are claiming ownership in which there is no mentioning about the suit survey number and also through partition deed acquire title was mentioned in the Ex.B5.

7.9) In Ex.B17 which is the unregistered power of attorney in which there is no mentioning about the alleged will and even the suit property is not mentioned. To prove that the defendants are in possession no patta was produced in the name of Shesayyar and Ex.B31 filed by the defendants is only the notice for enquiry to convert Ryotwari patta. But, they have not produced final order copy. After all these uncorroborated circumstances the defendants have created the Ex.B1 to Ex.B4. After knowing about the defendants sale deed the plaintiff filed the present suit for declaration and injunction.

7.10) He also contended that, another suit was filed relating to the title of adjacent properties of the suit property which was purchased by the relatives of the plaintiffs from Kandhasamy. Ex.A64 was the suit for ejection filed by one Prabhakaran and Mahalakshmi in which D1 filed written statement in that suit which is marked Ex.A65 and Ex.A66 was the decree of the above suit and Ex.A74 was the judgment of the above suit in which suit was declared has the property does not belongs to sheshayyar and in Ex.A73 and Ex.A75 which has mentioning about the 1944 order and the court also relied on that order and passed the orders.

7.11) Hence, the plaintiffs no need to plead for recovery of possession as the possession is already within the plaintiff and also Ex.B1 to Ex.B4 is the void documents. Hence, the documents need not be set aside by specif prayer and



prays to decree the suit.

7.12) Per contra, the learned counsel appeared for the defendants contended that, originally the property was the Jameen property and in possession of one Shesayyar and they made arrangement between their family. The wife of Shesayyar become insane and he has no issue. Shesayyar executed will deed in favour of his brother's sons. The plaintiffs has not produced the assignment order dated 1944 and even PW1 don't even see the said 1944 order. Unless and until the documents is produced, by the plaintiffs it cannot be assumed to be there exists such assignment order.

7.13) For the 2 decades the plaintiffs are alleged to be in possession of the suit property. But, no single piece of evidence has been produced by the plaintiffs. But, the defendants immediately after purchasing the property, taken possession of the property and named the suit property as Annai Nagar and divides the same into several plots which was impliedly admitted by the plaintiffs against which the plaintiff filed mandatory injunction application to remove shed made by the defendants in the suit property. Also no explanation was given regarding how the defendants came into possession of the suit property.

7.14) He also contended that, looking into the conduct of the parties, it has to be noted that, the defendants only purchased the suit property in the year 1998. Immediately after the purchase the defendants taken possession of the property and installed a board mentioned as Annai Nagar and put up a shed in the suit property and also divided the plots which are clearly mentioned in the report filed by the Advocate commissioner. But, before 2 decades of purchase of defendants, the plaintiffs are alleged to be in possession of the suit property. But, not produced any evidence with regard to the possession of the property. After purchase of the property defendants made publication in the news paper



and after publication the plaintiffs have filed the present suit. Also the defendants after purchasing the property sold around 6 acres of the property and only 2 acres of the property was remain unsold.

7.15) He also contended that, with regard to the better title u/s 11 of Inam abolition act when an order passed under this Act, it will becomes final if no appeal has been prepared against the said order within one year from the date of such order. In this case, the settlement order has not challenged by the plaintiffs till date even after knowledge about the settlement order.

7.16) The plaintiffs has neither produced the assignment order in the year of 1944 nor taken any steps to receive the copy from the government to produced that assignment order. Except the evidence of PW1, no person were examined on the side of plaintiffs and has not taken any steps to prove the assignment and so the title and the possession of the plaintiffs were not proved. He also contended that, the plaintiff miserably failed to prove their case, and also only to drag on the proceedings and to obtain unlawful profit from the defendants the suit has filed by the plaintiffs and prays for dismissal of the suit.

8) Heard both sides, on perusal of available case records and on consideration of arguments let in by both counsel this court answers the issues as follows.

9) Issue No.1 &2

- (i) *Whether the plaintiffs and their predecessors have valid title over the suit property?*
- (ii) *Whether the plaintiffs and the predecessors perfected their title by prescription and adverse possession ?*



9.1) For the sake and convenience of this court and to avoid repetition of facts and evidences in pleadings and considering the identical nature of the issues this court answers issue No.1 and 2 under the same head.

9.2) The case of the plaintiffs are that, the suit property is in resurvey Number 1/2 to an extent of 8 acres 73 cents in Ramankulam village, Madurai South Taluk and the Patta number of the land was 102 which stands in the name of 1st plaintiff and his elder brother Mani. Brother of 1st plaintiff was died on 16.02.1997 and the 2 to 8 plaintiffs were the legal heirs of deceased Mani.

9.3) The suit property originally belongs to one Subbaiah Konar through an order in 1944 through which Subbaiah Konar sold the property to one Kandhasamy Thevar. The sale deed in the name of Kandhasamy Thevar was Ex.A1 dated 19.01.1968. After the sale of Kandhasamy the property was in possession of Kandhasamy and Ex.A2 is the Kist receipt in the name of said Kandhasamy. After that, in 1965 Kandhasamy sold property to an extent of 1 acre 50 cent to Pitchairaju through Ex.A3.

9.4) And property to an extent of 1 acre 50 cent was sold to Kandhasamy to one Radhakrishnan through Ex.A4. Another extent of 1 acre was purchased by one Alagarsamy from Kandhasamy through Ex.A5. To an extent of 1 acre was sold to Lakshmanan by Kandhsamy through Ex.A6. Another extent of 1 acre was sold to Paramasivam by Kandhasamy through Ex.A7. remaining 2 acre 73 cents was sold to Mani Nadar through Ex.A8. The said Mani Nadar is the brother of 1st plaintiff.

9.5) After purchasing the suit property the above said owners enjoy the suit property without any interruption and they were in possession of the suit property to prove the same Ex.A16 to Ex.A21 were marked which are the Patta passbook in the name of all the above said purchasers with regard to their share



in the suit property in which the survey numbers were subdivided as per their rights. Also, Ex.A37 to 39 were the kist receipts in the name of Alagarsamy for the suit property. Ex.A40 is the kist receipt in the name of Lakshmanan, Ex.A41 is the kist receipt in the name of Pitchairaju and Ex.A42 is the kist receipt in the name of Balakrishnan.

9.6) From the above purchasers through Ex.A9 to Ex.A13 the 1st plaintiff purchased the suit property in the year 1982. The 1st plaintiff through Ex.A9 purchased the part of suit property from Pitchairaju on 25.03.1982. Through Ex.A10 the 1st plaintiff purchased suit property from G.Radhakrishnan. Through Ex.A11 the 1st plaintiff purchased the suit property from Alagarsamy. Through Ex.A12 the 1st plaintiff purchase suit property from R.Lakshmanan. The property purchased by Paramasivam was sold to one Balakrishnan Aachari on 29.09.1968 Through Ex.A13.

9.7) And the said Balakrishnan Aachari sold the property to one Saroja on 23.02.1982 through Ex.A14. And on 24.06.1983 the same was purchased by 1st plaintiff from Saroja through Ex.A15. Thereby, from the above said documents the 1st plaintiff acquire the suit property to an extent of 6 acres. After UDR, joint Patta was issued to the 1st plaintiff and the brother of 1st plaintiff Mani Nadar to the total extent of suit property which has been marked as Ex.A24. Ex.A22 is the kist receipt in the name of 1st plaintiff and Ex.A23 is the kist receipt in the name of Mani brother of 1st plaintiff.

9.8) Ex.A25 is the Pasali in the name of 1st plaintiff and Mani for the suit property dated 23.04.1998. Ex.A28 is the Pasali in the name of 1st plaintiff for the suit property dated 27.08.2016. Ex.A29 is the Pasali in the name of plaintiffs for the Pasali year 1401 dated 02.07.1998. Ex.A30 is the pasali in the name of plaintiffs for the Pasali year 1402. Ex.A31 is the pasali in the name of



plaintiffs for the Pasali year 1403. Ex.A32 is the pasali in the name of plaintiffs for the Pasali year 1404. Ex.A33 is the pasali in the name of plaintiffs and the vendors of plaintiffs for the Pasali year 1392. Ex.A34 is the pasali in the name of 1st plaintiffs for the Pasali year 1397. Ex.A35 is the pasali in the name of plaintiffs for the Pasali year 1404.

9.9) Ex.A36 is the Patta in the name of 1st plaintiff and one Mani who is the brother of 1st plaintiff having patta numer 102 issued during Jamabanthi. Ex.A43 to Ex.A45 were the kist receipts in the name of 1st plaintiff in the year 1982, 1991 and 1992 respectively. Ex.A46 is the kist receipt in the name of 1st plaintiff and Mani dated 24.03.1994. Ex.A47 is the kist receipt in the name of 1st plaintiff dated 09.04.1995. Ex.A48 is the kist receipt in the name of 1st plaintiff and Mani dated 16.02.2000. Ex.A49 is the kist receipt in the name of 1st plaintiff and Mani dated 07.02.2000. Ex.A50 is the kist receipt in the name of 1st plaintiff and Mani dated 20.02.2001. Ex.A51 is the kist receipt in the name of 1st plaintiff and Mani dated 14.02.2002.

9.10) To prove the case of the plaintiffs that the plaintiff purchased the suit properties only after getting encumbrance certificate and to show the bonafide intention of the plaintiffs Pw1 has produced Ex.A52 to Ex.A56 which were the encumbrance certificates obtained by plaintiffs before purchasing the suit property. Ex.A60 to Ex.A63 were the kist receipts in the name of 1st plaintiff and Mani for the suit property paid during the pendency of the suit. The plaintiffs through Ex.A1 to Ex.A63 have proved their title and continuous possession of the vendors of the plaintiffs and also the plaintiffs.

9.11) Per contra, the main contention of the defendants in this suit was, the suit property was belonged to one Sheshayyar through settlement under the Inam abolition Act through Ex.B8 which is the settlement order dated



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25.02.1968. Through which the Shesayyar enjoyed the suit property and his wife was mentally unsound and Shesayyar has no issue. Hence, Shesayyar executed a will deed infavour of the sons of Narayanasamy Iyer who is the brother of Shesayyar. The above said will deed dated 25.11.1978 was marked as Ex.B5. Shesayyar was died and his death certificate was marked as Ex.B9.

9.12) After the demise of Shesayyar, the legal heirs of Narayanasamy alleged to execute power of attorney infavour of one of the legal heir of Narayanasamy namely Ganesan through Ex.B17 and Ex.B18. As the power agent of the sons of Narayasyamy, Ganesan executed sale deed in the name of 1 to 4 defendants on 13.05.1998 thorough Ex.B1 to Ex.B4 regarding the suit property. To prove the possession of the vendors of defendant Ex.B10 to Ex.B15 were the kist receipts in the name of Lakshmiammal. And Ex.B16 is the kist receipt in the name of Shesayyar dated 23.04.1991. Ex.B19 to Ex.B22 were the kist receipts in the name of Shesayyar for patta No.22.

9.13) Ex.B23 to Ex.B26 were the kist receipts in the name of Ganesh Iyer for patta No.22 and 62. Ex.B27 is the application submitted for mutation of patta in the name of Ganesh Iyer. The 1 to 4 defendant claimed that, they are the bonafide purchasers and after purchasing the suit property the defendants like to made arrangements to sell the suit property by way of plots and so the 1st defendant issued paper publication with regard to the suit property which is marked as Ex.B28. The plaintiffs has not proved his case and so the counsel appeared for defendants vehemently contended the said settlement order in the year 1944 which was alleged to the which was issue to Subbaiah Konar was not produced in the court and so the sale deeds subsequent to the said order have legally no effect.



9.14) Initially the burden of proof lies on the plaintiffs to prove their case. The plaintiffs to prove their title and how they acquired the title they have produced Ex.A1 which is the parent deed of the plaintiffs in the name of Kandhasamy and the Ex.A3 to Ex.A7 were the title deeds of vendors of the 1st plaintiff. Ex.A8 to Ex.A13 were the sale deeds in favour of 1st plaintiff and the brother of 1st plaintiff Mani.

9.15) The suit property was subdivided after the purchase of the vendors of the 1st plaintiff which is proved through Ex.A16 to Ex.A21 which are the patta passbook in the name of the vendors of the plaintiffs. Also, the kist receipts were marked as Ex.A37 to Ex.A42 in the name of the vendors of the plaintiffs. From the above said documents the plaintiffs have established that, the vendors of the plaintiffs are having title over the suit property and they were in possession of the suit property. After the purchase of suit property by the 1st plaintiff and Mani joint patta was issued in their favour which is marked as Ex.A24. And also, the joint patta were issued infavour of 1st plaintiff and Mani at the time of Jamabanthi which is marked as Ex.A25

9.16) To prove the possession of the plaintiffs Ex.A43 to Ex.A51 were the kist receipts in the name of the plaintiffs throughout the period form 1982 to 2002 and Ex.A60 to Ex.A63 were the kist receipts in the name of plaintiffs during the pendency of the suit. Also, the plaintiffs through pasali paid kist receipts which were marked as Ex.A48 to Ex.A51. The documents produced by the plaintiffs proves that, the plaintiffs have valid title and continuous possession over the suit property.

9.17) The defendant contended that, the property belongs to Shesayyar through Ex.B8 which is the settlement order under Inam abolition Act with regard to the suit property. As per the settlement order, Ex.B8 Shesayyar



derives title to the suit property. Shesyyar executed will deed Ex.B5 infavour of the sons of his brother Narayanasamy Iyer. After the demise of Shesayyar the will deed came into effect and the legal heirs of Narayanasamy Iyer became the owner of the suit property. They are Sundaram, Mahalingam, Ganesan, Balasubramanian. On perusal of Ex.B5 which is the will deed, the suit property was not mentioned in the description of the property. No proper explanation was given by the side of defendants with regard to the non mentioning of suit survey number in Ex.B5. Even in Ex.B5, it is mentioned as the property which Sesayyer acquires through partition, that property was bequeathed to his brother's sons which does not disclose the survey number of the suit property.

9.18) The plaintiffs counsel during the cross examination of DW1 questioned the said will deed and the DW1 deposed as follows :

"கணேசன், மகாலிங்கம், சுந்தரம் ஆகியோர்களுக்கு சேஷையர் உயில் எழுதி வைத்ததாகவும் அதன் மூலம் பாத்தியம் என கிரைய ஆவணத்தில் சொல்லப்பட்டுள்ளது என்றால் சரிதான். அந்த உயில் சாசனம் பி.வா.சா.ஆ.5 ஆக குறியீடு செய்யப்பட்டுள்ளது என்றால் சரிதான். அந்த உயிலில் எனக்கு கிரையம் கொடுக்கப்பட்ட சொத்துக்கள் குறிப்பிடப்பட்டுள்ளதா என்பதை படித்து தெரிந்துகொண்டேனா என்றால் தெரிந்து கொண்டேன். அந்த உயிலில் தாவா சொத்தான இராமன்குளம் கிராமம் R.S.No.1/2 குறிப்பிடவில்லை என்றால் சரியல்ல."

9.19) On perusal of Ex.B17 and Ex.B18 which is the power of attorney deed executed by Mahalingam and Sundaram infavour of their brother Ganesh Iyer which does not disclose any item of properties and also the contents of the power of attorney does not even speak about the contents of will deed executed by Shesayyar. Mere reading of the deed shows that, the agents authorized to properties which belongs to the principal alone as mentioned in the power of



attorney. The counsel appeared for plaintiffs during the cross examination of DW1 questioned regarding Ex.B17 and Ex.B18 as follows :

"கிரைய ஆவணமானது கணேசன் என்பவர் தனக்காகவும் தனது சகோதரர்கள் மகாலிங்கம், சுந்தரம் ஆகியோர்களின் பவர் ஏஜெண்டாக இருந்து எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான். நான் தாக்கல் செய்துள்ள பி.வா.சா.ஆ.17 மற்றும் பி.வா.சா.ஆ.18 பொது அதிகார ஆவணத்தில் தாவா சொத்து சம்மந்தமாகவும், உயில் சம்மந்தமாகவும் எவ்வித குறிப்பும் இல்லை என்றால் அவ்வாறு குறிப்பு இருப்பதாக எனது வழக்கறிஞர் என்னிடம் தெரிவித்தார். தாவா சொத்தை கிரையம் பெறுவதற்கு முன்பாக வழக்கறிஞரிடம் தாவா சொத்து சம்மந்தமாக முந்தைய ஆவணங்களை சமர்பித்து சட்டகருத்துரை பெற்று தான் கிரையம் பெற்றேன் என்றால் சரிதான். நான் சட்ட கருத்துரைய நீதிமன்றத்தில் தாக்கல் செய்யலாம் என்றால் சரிதான். "

9.20) From the deposition of DW1 it is clear that, the defendant after obtaining legal opinion before purchasing the suit property. But does not produce the legal opinion before this court. From the conduct of the defendant this court draw an adverse inference against the defendant that, by knowing very well about the contents of the will deed Ex.B5 and Ex.B17 and Ex.B18 the power of attorney which does not have any mentioning about the suit property and By knowing the above said matter, the defendant 1 to 4 created Ex.B1 to Ex.B4 sale deeds in their name to encumber the suit property. Also this court draws adverse interence against the defendants that if the defendant legal opinion before purchase, he would come to know] about the sale deeds in the name of the plaintiff and their vendors. But the defendants have not taken any steps to cancel those deeds.

9.21) Also, brother of Narayanasamy Iyer has 4 sons namely Sundaram, Ganesan, Mahalingam and Balasubramanian. But, the right of the said



Balasubrmanian remain silent with regard execution of Ex.B1 to Ex.B4. The defendants claiming the title only through Ex.B8 which is the settlement order in the name of Shesayyar. Except Ex.B8, no other documents were produced to show the title of Shesayyar. And also on the side of defendants to prove the possession of Shesayyar Ex.B10 to Ex.B15 were produced. On perusal of the above said documents it is the kist receipts in the name of Lakshimiammal and Ex.B16 is the kist receipt in the name of Shesayyar. Ex.B10 to Ex.B.16 were the kist receipts for the property in patta number 22 in Ramankulam village.

9.22) The said patta No.22 was not produced by the defendants before this court to show that Patta No.22 belongs to the suit property and Ex.B19 to Ex.B26 were the kist receipts in the name of Ganesh Iyer with regard to the property in patta No.22 and 62. The Ex.B19 to Ex.B22 has only writings in pencil and no seal or signature was seen in the kist receipts which created doubt regarding those documents. Also, the defendants does not give any explanation regarding the property mentioned in patta No.22 and the suit property was same. In such circumstances, this court cannot accept the contention of the defendants that the above said kist receipts were issued with regard to the suit property.

9.23) On careful consideration of evidence let in by both the parties this court thinks that the plaintiff clearly establishes their right with regard to the title of the suit property. Per contra, the defendants 1 to 4 did not even examine their vendor as his side evidence to prove that they are the bonafide purchasers of the suit property. Also, no reasons were stated with regard to the non examination of their vendor. The documents through which the defendant 1 to 4 are claiming their title does not even contain the survey number of suit property and no proper explanation was given by the defendants with regard to that.



9.24) Even after examination of DW1, with regard to the non mentioning of survey number of the suit property in Ex.B5 through which the title of defendants derived was not properly explained by the defendants to this court. The power of attorney Ex.B17 and Ex.B18 were executed in the year 1981 and after 17 years of power of attorney Ex.B1 to Ex.B4 was created in favour of 1 to 4 defendants. Whether the power deed was in force at the time of execution of Ex.B1 to Ex.B4 and whether the principals of the power of attorney was alive at the time of execution of Ex.B1 to Ex.B4 was a million dollar question in this suit.

9.25) If Ex.B8 was true and Shesayyar derive title over the suit property, he would some how has taken steps against the documents in the name of the plaintiff or the vendors of the plaintiffs. Because, the parent deed of the suit property ie., Ex.A1 was in the year 1968. At the same year the defendants are claiming that, settlement order was issued infavour of Shesayyar. But, no action was taken by Shesayyar with regard to the documents created by Subbaiha Konar or the other vendors of the plaintiffs. Merely, Ex.B8 was issued infvaour of Shesayyar we cannot draw presumption that, Shesayyar derives title over the suit property.

9.26) Also, the defendants does not even produce a single piece of evidence to prove the possession of the vendors of defendants with regard to the suit property. The only objection of the defendants was that, the plaintiff does not take any action with regard to the settlement order and so the settlement order becomes final. But, only after the purchase of the property by 1 to 4 defendants the plaintiffs came to knowledge about the said settlement order. This court drawn presumption that, there is no chance for the plaintiff to get knowledge about the Ex.B8.



9.27) Ex.B1 to Ex.B4 were executed on 13.05.1998 and the suit was filed on 24.06.1998 immediately within one month of the execution of Ex.B1 to Ex.B4. The plaintiffs were acted immediately to protect the interest of them with regard to the suit property. Also, the contention raised by the defendants that the plaintiffs seeking declaration of suit property through title deeds and adverse possession are contrary to their pleading. This court does not consider the defence raised by the defendants as the plaintiffs has every right to plead in whatever manner their right accrues. With regard to that contention, in **1998 (2) L.W page 188 Hon'ble Supreme court** held that, if the settlement order issued by the officer with regard to the title the court has jurisdiction to reconsider the same and decide the title.

9.28) If the evidence let in by the plaintiff shows that they have a better title than the defendants then the plaintiffs are entitled to succeed. **(2026) 4 MLJ 534 Hon'ble High Court.** From the above consideration this court thinks that, the plaintiffs and predecessors have valid title over the suit property and Point No.1 and 2 are answer infavour of the plaintiffs.

10) Issue No. 3

(iii) *Whether the plaintiff has to seek for relief of declaration against the sale deed said to be created in the month of May 1998 ?*

10.1) With regard to Issue No.3 the Hon'ble Apex court in many cases has established that, a plaintiff seeking declaration of title does not need to explicitly ask for the cancellation or nullity of a sale deed executed by a 3rd party who had no valid title over the property. The principle of ***Nemo dat quod non habet*** under section 54 of transfer of property Act 1882, a valid transfer of property requires the seller to hold a lawful title. A person with unlawful



ownership cannot transfer a better title than themselves possess. A sale deed executed by a non owner is void abinitio and legally treats the documents as non exists.

10.2) In *Shanthidevi vs Jegandevi and others Hon'ble Supreme court* held that,

“A sale deed executed without lawful consent or ownership is void abinitio because it is a legal nullity, it does not require a specific challenge or declaration to be set aside and regular law limitation period to cancel a document do not block the true owner from reclaiming their property.”

10.3) Hence, from the observation made above this court comes to an opinion that, the documents Ex.B1 to Ex.B4 infavour of the 1 to 4 defendants without any lawful ownership is consider as void abinitio and so, the plaintiffs need not compel to seek the relief of declaration of the sale deeds Ex.B1 to Ex.B4 as null and void and issue No.3 is answered accordingly.

11) Issue No.4

(iv) *Whether the plaintiffs are in the possession of the suit property ?*

11.1) From the evidence let in by the plaintiffs Ex.A2 is the kist receipts in the name of Kandhasamy who was the purchaser of the property in the year 1968. Ex.A16 to Ex.A21 are the patta passbook in the name of subsequent purchasers of the suit property under which the suit property was subdivided and seperate patta passbook was granted to all the purchasers of the suit property. And Ex.A37 to Ex.A42 were the kist receipts in the name of the subsequent purchasers of the suit property. After the purchase of suit property by the 1st plaintiff and the brother of 1st plaintiff joint patta was obtained which



is Ex.A24 and also patta was issued in Jamabanthi which is marked as Ex.A5. Ex.A28 to Ex.A35 Adangal in the name of plaintiffs and Ex.A43 to Ex.A51 were the kist receipts in the name of plaintiffs.

11.2) On considering the nature of the suit property the plaintiffs claiming the suit property as an agriculture land in the year 1998. The defendants content that, the suit property was subdivided into house sites that is plots. To examine the physical features of the suit property advocate commissioner was appointed by this court and in his report he stated that,

"தாவா வழக்கிடை சொத்து புஞ்சை நிலமாக உள்ளதா அல்லது மனையிடம் பிளாட்டுகளாக உள்ளதா என்பதை பற்றி பார்க்கையில், நான் பார்வையிட்ட போது தாவா சொத்து முழுவதும் 8 ஏக்கர் 73 செண்டுமே காலியிடமாகவே இருந்தது. தாவா மொத்த சொத்தில் எந்தவொரு கட்டிடமோ, கட்டுமானமோ இல்லை. அதேபோன்று தற்போது தாவா சொத்தில் விவசாயம், செய்யப்பட்டதற்கும் எந்த ஒரு அறிகுறியும் இல்லை. தாவா மொத்த சொத்தில் ஆங்காங்கே கற்கள் ஊண்டப்பட்டிருந்தது.

தாவா சொத்து தற்போது காலியிடமாக உள்ளதையும், தாவா சொத்தின் ரோட்டிற்கும் மேற்கே உள்ள காலியிடத்தில் ஒரு சில கற்கள் நடப்பட்டிருப்பதையும், தாவா சொத்தின் ரோட்டிற்கும் கிழக்கே உள்ள காலியிடத்தின் நடுவே ஆங்காங்கே சில கற்கள் நடப்பட்டிருப்பதையும் தாவா சொத்தின் ரோட்டிற்கும் கிழக்கே உள்ள காலியிடத்தின் நடுவே ஆங்காங்கே சில கற்கள் நடப்பட்டிருப்பதையும், தாவா சொத்தில் ஆங்காங்கே சீலக்கருவேல மரம் இருப்பதையும் காண முடிகின்றது.

அதேபோன்று தாவா சொத்தில் யாதோரு கட்டுமானமும் இல்லை என்பதை பொறுதது வாதிகள தரப்பில் என்னிடம் கொடுத்த தாவா சொத்து சம்மந்தமான கம்பியூட்டர் இணையவழி



வரைபடத்தை இத்துடன் இணைத்துள்ளேன். மேலும் தாவா வழக்கிடை சொத்து சம்மந்தமான FMB Sketch இணையவழி பதிவிறக்க நகல் இத்துடன் இணைத்துள்ளேன். மேற்படி FMB Sketch-ல் தாவா சொத்து எந்தவொரு உட்பிரிவு செய்யப்படாமல் மொத்தமாகவே இருப்பதை அறிய முடிகின்றது.

இறுதியாக தாவா சொத்தில் நான் பார்வையிட்ட போது எந்தவொரு கட்டுமானமோ, கட்டிடமோ இல்லையென்றும், தாவா சொத்தானது பிரதிவாதிகள் தெரிவித்தது போன்று பல பிளாட்டுகளாகப் பிரித்திருந்தாலும் நான் பார்வையிட்ட போது தனித்தனி பிளாட்டுகளாக இல்லையென்றும் ஆங்காங்கே சில இடங்களில் மட்டுமே பிளாட் மனையிடமாக பிரிப்பதற்கேற்றவாறு கற்கள் ஊண்டப்பட்டிருந்தது என்பதையும், மொத்த தாவா சொத்தும் காலியிடமாகவே உள்ளது என்றும், தாவா சொத்தை சுற்றி நான்கு திசைகளிலும் ஆங்காங்கே சில வீடுகள் கட்டப்பட்டு இருந்தது என்றும் தெரிவித்துக்கொள்கிறேன்."

11.3) From the report given by the advocate commissioner, this court comes to an opinion that, the suit was filed in the year 1998 and the defendants 1 to 4 purchased the suit property in the year 1998. Within a month the plaintiffs has filed the present suit. The advocate commissioner examined the property and filed a report only in the year 2026.

11.4) On analysing, the suit property was kept as a vacant site from the year 1998 to till date. The contention of the plaintiff that they were doing agriculture in the suit property prior to the suit and it was also proved by them by producing kist receipts and Adangal with regard to the suit property in the name of plaintiffs. The defendants 1 to 4 said to the purchased the suit properties on 13.05.1998 and the suit was filed 24.06.1998. Within a period of one month the defendants cannot subdivided the properties as plots.



11.5) But, after analysing the report filed by the advocate commissioner the total extent of the property was 8 acre 73 cents and during the pendency of suit the defendants 1 to 4 sold the properties to various persons. Only an extent of 2 acre in the suit property remains unsold. All the said transactions was made between the year 1999 and 2004. This clearly shows that, the above sale transactions were made during the pendency of the suit. The defendants knowing very well about the present suit sold the suit properties with intent to create encumbrance in the suit property and so, those sale transactions were hit by lispendence. Also, the report of advocate commissioner has stated that, the property was kept as a vacant land, only some stones were laid down. The photos produced by the advocate commissioner shows that to sell a plot certain amenities are required, but no such amenities were seen in the photos. In such case, this court cannot accept that the sale made by D1 to D4 are genuine one.

11.6) The defendants did not give any explanation with regard to the selling of the properties when it is stated by the advocate commissioner that, the property has only seen as a vacant land and no plots were subdivided only stones were present then and there. In such case, without proper division of plots there is no necessity to sell the properties. It is clear from the conduct of the defendants that, with intent to create encumbrance to the property D1 to D4 sold the properties to third parties.

11.7) With regard to the possession of the plaintiffs as it is a vacant land as mentioned by the advocate commissioner, the legal dynamics heavily lies in favour of the plaintiffs under the legal presumption established by the supreme court of India i.e., possession follows title.

11.8) In the landmark judgment, **Anathula Sudhakar vs P.Buchireddy** the supreme court held that, **“where a property is a vacant site, it is not**



physical possess, lived in are enjoyed on a daily basis. In such cases physical possession is legally presumed to vest with the person who holds the through lawful title.”

11.9) From the above findings, this court answers the issue No.4 infavour of the plaintiffs and answer accordingly.

12) Issue No.5

(v) *Whether the plaintiff has to seek the relief of recovery of possession ?*

12.1) Under the Indian law, the requirement to seek the relief of recovery of possession with declaration of title is governed by section 34 of specific relief Act 1963. While the general rule mandates seeking possession of the property along with declaration. But, the exception to the above rule is when the property is a vacant land need not seek the relief of recovery of possession when there is a valid title over the property. Because in this case a fraudulent deed cannot establish settled physical possession over a bare plot of land simply by restring a fake piece of paper as the plaintiffs were the legal owners.

12.2) As the plaintiffs are legally deemed to be in de jure (legal) possession. Therefore, the plaintiffs need to seek for relief of recovery of possession since, the case of the plaintiffs falls under the exception to section 34 of specific relief Act. If the property is completely open and vacant a prayer for declaration of title coupled with relief of permanent injunction is completely sufficient and maintainable.

12.3) In Aathula Sudhakar case and in Akkamma vs Vemavathi the Hon'ble supreme court held that, if the nature of the property makes actual physical possession impossible or unprovable such as open sites or vacant field



the lawful owner is presumed to be in possession making a separate prayer for recovery of property becomes redundant. Hence, issue No. 5 is answered accordingly.

13) Issue No.7 and 8

(vii) Whether the defendants interfered the possession of the plaintiffs ?

(viii) Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for ?

13.1) On perusing the arguments and evidence on record the plaintiffs hold absolute title to the suit property which is a vacant land while the defendants created void documents in their favour and also during the pendency of the suit the defendants created many documents regarding the suit property. In such circumstances the court granted the plaintiff the relief of declaration of title with regard to the suit property u/s 34 of specific relief Act. Thereby this court thinks that, the plaintiffs were entitled to the relief of permanent injunction as prayed for. Hence issue No. 7 and 8 are answered accordingly.

14) Issue No.9

(ix) To what other relief plaintiffs are entitled ?

14.1) As all other issues were answered infavour of the plaintiffs this court thinks that, no other reliefs to be granted to the plaintiffs.

In the result, the suit is hereby decreed as follows :

- 1) The plaintiffs are the absolute owners of the suit property.



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- 2) The plaintiffs are entitled for relief for permanent injunction restraining the defendants their mens, their agents and servants to disturb or interfere with the plaintiffs peaceful possession and enjoyment of the suit property in any manner
- 3) The defendants to pay the cost of the plaintiff for the suit

This Judgment is dictated to the Steno-typist, typed by her, corrected and pronounced by me in open court on this 28th day of July 2026.

Principal District Munsif (FAC)
Madurai Town.

PLAINTIFF SIDE WITNESS:

PW1 – Krishnan

PLAINTIFFS SIDE DOCUMENTS:

Ex.A1	12.01.1968	Sale deed	Original
Ex.A2	21.03.1968	Kist receipts	Original
Ex.A3	20.06.1968	Kandhasamy sold the extend of 1 acre 50 cents to one Pitchai Raju	Original
Ex.A4	25.05.1968	Sale deed	Original
Ex.A5	25.05.1968	Sale deed	Original
Ex.A6	25.05.1968	Sale deed	Certified copy
Ex.A7	25.05.1968	Sale deed	Certified copy



Ex.A8	07.07.1982	Sale deed	Original
Ex.A9	25.03.1982	Sale deed	Original
Ex.A10	25.03.1982	Sale deed	Original
Ex.A11	25.03.1982	Sale deed	Original
Ex.A12	25.03.1982	Sale deed	Original
Ex.A13	25.09.1968	Sale deed	Original
Ex.A14	23.02.1982	Sale deed	Original
Ex.A15	24.06.1983	Sale deed	Original
Ex.A16	---	Patta Passbook in the name of Pitchairaja	Original
Ex.A17	---	Patta Passbook in the name of Radhakrishnan	Xerox
Ex.A18	---	Patta Passbook in the name of Lakshmanan	Original
Ex.A19	---	Patta Passbook in the name of Palsamy	Original
Ex.A20	---	Patta Passbook in the name of Kandhasamy	Original
Ex.A21	---	Patta Passbook in the name of Alagarsamy	Original
Ex.A22	---	Kist receipt for Patta No.73 in the year of 1983	Original
Ex.A23	---	Kist receipt for Patta No.78 in the year of 1983	Original
Ex.A24	---	Joined Patta was issued in favour of plaintiffs	Original
Ex.A25	23.04.1998	Joined Patta was issued in favour of plaintiffs through 1998 Jamabanthi	Original
Ex.A26	16.02.1997	Death Certificate of Mani	Xerox



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Ex.A27	19.03.1997	Legal heirs of deceased Mani	Xerox
Ex.A28	27.08.2016	Adangal for the pasali year 1400	Original
Ex.A29	02.07.2018	Adangal for the pasali year 1401	Original
Ex.A30	02.07.2018	Adangal for the pasali year 1402	Original
Ex.A31	02.07.2018	Adangal for the pasali year 1403	Original
Ex.A32	02.07.2018	Adangal for the pasali year 1404	Original
Ex.A33	29.05.2000	Adangal for the pasali year 1392, 1395, 1396	Original
Ex.A34	29.05.2000	Adangal for the pasali year from 1397 to 1403	Original
Ex.A35	29.05.2000	Adangal for the pasali year from 1404 to 1407	Original
Ex.A36	29.05.2000	Chitta for patta No.102	Original
Ex.A37	15.04.1973	Kist receipts for patta No.75 for the year of 1973	Original
Ex.A38	03.04.1974	Kist receipts for patta No.75 for the year of 1974	Original
Ex.A39	08.06.1979	Kist receipts for patta No.75 for the year of 1979	Original
Ex.A40	08.06.1979	Kist receipts for patta No.76 for the year of 1979	Original
Ex.A41	26.03.1980	Kist receipts for patta No.73 for the year of 1980	Original
Ex.A42	17.02.1982	Kist receipts for patta No.77 for the year of 1982	Original



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Ex.A43	19.06.1982	Kist receipts from patta Nos. 73 to 76	Original
Ex.A44	07.03.1991	Kist receipt for patta No.102 for the year of 1991	Original
Ex.A45	21.03.1992	Kist receipt for patta No.102 for the year of 1992	Original
Ex.A46	24.03.1994	Kist receipt for patta No.102 for the year of 1994	Original
Ex.A47	09.04.1995	Kist receipt for patta No.102 for the year of 1995	Original
Ex.A48	16.02.2000	Kist receipt for patta No.102 for the pasali year 1409	Original
Ex.A49	17.02.2000	Kist receipt for patta No.102 for the pasali year 1409	Original
Ex.A50	20.02.2001	Kist receipt for patta No.102 for the pasali year 1410	Original
Ex.A51	14.02.2002	Kist receipt for patta No.102 for the pasali year 1411	Xerox
Ex.A52	---	Encumbrance certificates obtained by plaintiffs before purchasing the suit property	Original
Ex.A53	---	Encumbrance certificates obtained by plaintiffs before purchasing the suit property	Original
Ex.A54	---	Encumbrance certificates obtained by plaintiffs before purchasing the suit property	Original
Ex.A55	---	Encumbrance certificates obtained by plaintiffs before purchasing the suit property	Original



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Ex.A56	---	Encumbrance certificates obtained by plaintiffs before purchasing the suit property	Certified copy
Ex.A57	11.06.1998	Caveat petition served copy	Copy
Ex.A58	16.06.1998	Newspaper advertisement	Original
Ex.A59	18.09.1998	Advocate notice sent to 1 to 4 defendants by plaintiffs	Hand Copy
Ex.A60	04.02.2005	Kist receipt for the pasali 1414	Original
Ex.A61	15.02.2006	Kist receipt for the pasali 1415	Original
Ex.A62	06.02.2007	Kist receipt for the pasali 1416	Original
Ex.A63	06.03.2008	Kist receipt for the pasali 1417	Original
Ex.A64	---	Plaint copy of O.S.No.398/2005	Xerox
Ex.A65	---	Written statement filed by 1 st defendant Baburajan in O.S.No.398/2005	Xerox
Ex.A66	---	Decree copy of O.S.No.398/2005	Certified Copy
Ex.A67	---	Plaint copy of O.S.No.140/1998	Certified Copy
Ex.A68	----	Written statement filed by Kannadass in O.S.No.140/1998	Certified Copy
Ex.A69	---	Judgment copy of O.S.No.140/1998	Certified Copy
Ex.A70	----	Plaint copy of O.S.No.3/2000	Certified Copy
Ex.A71	---	Written statement filed by Kannadass in O.S.No.3/2000	Certified Copy
Ex.A72	---	Judgment copy of O.S.N.3/2000	Certified Copy



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Ex.A73	31.10.1968	Sale deed	Officer Certified Copy
Ex.A74	07.10.1968	Sale deed	Officer Certified Copy
Ex.A75	---	Kist receipts of suit property (7 Nos.)	Original

DEFENDANTS SIDE WITNESS:

DW1 – Baburajan

DEFENDANTS SIDE DOCUMENTS:

Ex.B1	13.05.1998	Sale Deed standing in the name of the 1st Defendant	Original
Ex.B2	13.05.1998	Sale Deed standing in the name of the 4th Defendant	Original
Ex.B3	13.05.1998	Sale Deed standing in the name of the 3rd Defendant	Original
Ex.B4	13.05.1998	Sale Deed standing in the name of the 2nd Defendant	Original
Ex.B5	25.11.1978	Will Deed	Original
Ex.B6	06.10.1975	Record of Rights (Land Ownership Register)	Original
Ex.B7	02.08.1960	Fair land Register	Original
Ex.B8	25.02.1968	Order passed by the Assistant Settlement Officer, Madurai	Original
Ex.B9	14.12.1978	Death Certificate of Seshayyar	Original
Ex.B10	21.06.1964	Kist receipt	Original
Ex.B11	23.03.1965	Kist receipt	Original



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Ex.B12	23.03.1965	Kist receipt	Original
Ex.B13	20.05.1966	Kist receipt (2 Nos.)	Original
Ex.B14	11.04.1967	Kist receipt	Original
Ex.B15	15.04.1968	Kist receipt	Original
Ex.B16	30.03.1969	Kist receipt	Original
Ex.B17	26.02.1981	General Power of Attorney	Original
Ex.B18	26.03.1981	General Power of Attorney	Original
Ex.B19	14.02.1972	Kist receipt	Original
Ex.B20	15.06.1972	Kist receipt	Original
Ex.B21	13.03.1973	Kist receipt	Original
Ex.B22	05.04.1973	Kist receipt	Original
Ex.B23	26.04.1982	Kist receipt	Original
Ex.B24	09.05.1984	Kist receipt	Original
Ex.B25	01.06.1986	Kist receipt	Original
Ex.B26	04.03.1987	Kist receipt	Original
Ex.B27	06.03.1987	Application submitted for Transfer of Patta	Xerox
Ex.B28	13.06.1998	Caution Notice published in the Dinamalar Newspaper	Original
Ex.B29	---	Photographs and Negatives of the Suit Property	Original
Ex.B30	16.04.1974	Kist receipt	Original
Ex.B31	04.10.1967	1965 Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act	Court Certified Copy



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Ex.B32	14.08.1997	Sale Deed bearing Document No. 2275 of 1997	Computer-generated Certified Copy issued by the Sub-Registrar
Ex.B33	14.08.1997	Sale Deed bearing Document No. 2276 of 1997	Computer-generated Certified Copy issued by the Sub-Registrar
Ex.B34	15.12.1997	Sale Deed	Computer-generated Certified Copy issued by the Sub-Registrar

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