

**IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
THANJAVUR**

Present : Thiru.P.Kumar, B.A., B.L.,
Principal Subordinate Judge, Thanjavur.
Wednesday, the 13th day of August 2025.

Thiruvalluvarandu 2056 Sri Visuvavasu Aandu, Aadi Thingal 28th day

O.S. No.161/2021

(CNR. No.TNTJ03-000078-2021)

R. Dhanavel

...Plaintiff

-Vs-

1. Muthukrishnan,
2. Manikandan,
3. Neelkandan,
4. Bhoominathan

...Defendants

This suit came up before me for final hearing on 05.08.2025, Thiru.N.Swaminathan, Counsel appeared for the plaintiff and Thiru.K.Kannan, counsel appeared for the defendants but they were absent for arguments. Hence, this court reserved the suit for judgment. In the meantime, plaintiff counsel submitted written argument on 11.08.2025, the defendants counsel argued the matter on 13.08.2025 and

upon perusing the written argument and upon hearing oral argument and upon perusal of materials and records and having stood over for consideration till this date, this Court delivers the following...

JUDGMENT

The suit is filed for the relief of permanent injunction restraining the defendants, their men and agents or anybody claiming through them in whatever capacity from in any manner evict the plaintiff except under due process of law from the suit property and to interfere with the plaintiff peaceful possession and enjoyment of the suit property and for cost.

1. GIST OF PLAINT:

The suit property belongs to the 1st defendant's father namely Lakshmanan. The plaintiff's father was original cultivating tenant under the father of the 1st defendant's father under oral tenancy agreement from the year 1985. The rent for the suit property is four kalams per Mah. The 1st defendant's father is not in the habit of issuing any receipt for such rent. The plaintiff's father cultivated the property and the plaintiff also helping his father for doing cultivation. The plaintiff's father used to pay the kist for the suit property and plaintiff will pay the same. Due to the age factor, the plaintiff's father had given the tenancy to the plaintiff orally in the year 2015 and the defendants also agreed for the same. The plaintiff has been in continuous possession and enjoyment and also obtained loan from the cooperative society. Being the fact as

above, on 06.05.2021 when the plaintiff and his family members were doing agricultural work in the suit property, the defendants along with their men came into the suit property and caused much disturbance and tried to dispossess the plaintiff. Since, the plaintiff is the cultivating tenant he has to be dispossessed only through due process of law. Therefore, this suit is filed.

2. GIST OF WRITTEN STATEMENT OF DEFENDANTS :

The averments except which are all admitted as true and correct all other averments made in the plaint are liable to be proved by the plaintiffs alone. The Written statement was filed by the 1st defendant and the same was adopted by 2 to 4th defendants. The suit property never be given as to the plaintiff or his father for tenancy. It is under the possession of the defendants. The plaintiff never cultivated in the suit property on the capacity of cultivating tenant. The defendants alone enjoying the property by cultivating it as an owner of the suit property. The suit is filed with help of irrelevant documents. Further, the suit is filed with tainted facts. The 1st defendant filed a suit in OS.No.55/2021 before District Munsif Court, Thiruvaiyaru for the suit property. Therefore, this suit is not maintainable. The plaintiff has no right to seek the relief of permanent injunction. Therefore, this suit is liable for dismissal.

3. Having gone through the pleadings and documents and based upon the divergent pleadings the following issues were framed by this court on 15.01.2023.

Issues:

1. தாவா சொத்தில் வாதி குத்தகைதாரர் என்ற முறையில் இன்றைய தேதி வரை அனுபவம் செய்து வருகிறார் என்பது உண்மையா?
2. தாவா சொத்து பிரதிவாதிகள் வசம் அனுபவத்தில் உள்ளது என்பது உண்மையா?
3. வாதி பிரதிவாதிகளுக்கு எதிராக கோரும் நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வாதிக்கு கிடைக்கத்தக்கதா?
4. வாதிக்கு கிடைக்கத்தக்க வேறு பரிகாரம் என்ன?

4. In this suit, in order to fortify the case of the Plaintiff, Plaintiff Dhanavel was examined as PW1 and Ex.A1 to Ex.A5 were marked through him and one Thiru.Jayaraman, Co-operative Secretary was examined as PW2 and Ex.X1 was marked through him. On the side of the defendants, the 2nd defendant Manikandan was examined as DW1 and Ex.B1 to Ex.B19 were marked through him and one Mohan was examined as DW2 and no document was marked through him and one Tmt.Geetha, VAO was examined as DW3 and no document was marked through her and one Sureshkumar, Co-operative Secretary was examined as DW4 and no document was marked through him.

5. After closing both side evidence, oral arguments were heard. Written argument also perused. Records also perused. Upon perusal of the pleadings, Exhibits and evidence of PW1, the fact that the 1st defendant's father namely Lakshmanan was the original owner of the suit property is not in dispute. The plaintiff himself admitted the

same as true. Therefore, the Ex.B1 Assignment, Ex.B3 patta in the name of the 1st defendant's father, Ex.B4 and Ex.B8 are showing the ownership of 1st defendant's father. Therefore, those documents need not be discussed further.

6. Issue No.1 and 3 :

The plaintiff counsel would contented that the suit property originally belonged to the 1st defendant's father namely Lakshmanan and he gave the suit property to the plaintiff's father for cultivation through oral tenancy agreement in the year 1985. The rent for the suit property was fixed as four kalams per Mah. As per the tenancy agreement, the plaintiff's father cultivated the suit property and paid the rent as agreed by him, but the defendant's father was not in the habit of issuing any receipt for that. Due to the age factor, the plaintiff's father was not able to continue the cultivation in the suit property, so he orally transferred the tenancy to the plaintiff herein in the year 2015 with intimation of the defendants.

7. The plaintiff counsel would contented further that after taking possession of the suit property, the plaintiff has been cultivating the suit property and paying the rent as agreed by him. There is no due to the defendants till date. Further, the plaintiff also obtained a loan from the Co-operative Bank by showing that the suit property as he is the cultivating tenant and the adangal also happened in the name of the plaintiff herein. Further, the passbook of Co-operative Society itself showed that the plaintiff was cultivating the suit property. The facts are remaining so, all of sudden the defendants

came to the suit property along with his men when the plaintiff preparing for cultivation work along with his family and attempted to dispossess the plaintiff from the suit property. As per Tamil Nadu Act 18 of 1960, the plaintiff is entitled to get the benefits. The defendants can evict the plaintiff only under due process of law, but not otherwise. Since, the plaintiff is under the threat of dispossession, this suit is filed.

8. The plaintiff counsel further contented that the plaintiff's side witness are clearly deposed that the plaintiff has been in possession and enjoyment over the suit property and the documents are also proved the same. So, he is entitled the relief of permanent injunction. The plaintiff counsel further contented that the Hon'ble High Court also held that mere non-entering into the Tenancy Rights Register does not taken away the right of the plaintiff claiming the protection under Cultivating Tenancy Act and he is relying upon the following Judgment in order to strengthen his argument.

Joseph Nadar, P. Mandhiramoorthy (Died), S.

Mandhiramoorthy and Chellammal

vs

Victor Suvisesha Muthu, M. Vishalakshi and N.

Shanmugathal

9. Per Contra, the defendants counsel would submit that neither the 1st defendant nor his father given the suit property for cultivation to the plaintiff. The suit property always being in the possession and enjoyment of defendants and they are alone doing

agriculture work in the suit property. There is no merits in the suit and the judgment relied upon by the plaintiff is not applicable to this case on hand. Further, the defendants counsel submitted that already a suit in OS.No.55/2021 was filed before the District Munsif Court, Thiruvaiyaru against the plaintiff for the relief of Permanent Injunction and is pending. Therefore, this suit is not at all maintainable and is liable for dismissal.

10. Having heard the both side arguments, the first and foremost duty of this court is to decide whether the plaintiff or his father is the cultivating tenant over the suit property or not? For easy understanding and appreciation, it is just and necessary to see who is the cultivating tenant under Tamil Nadu Cultivating Tenant Protection Act. As per section 2(aa) of Tamil Nadu Cultivating Tenants Protection Act,

“["cultivating tenant" - [This clause was substituted for clause (aa) as so re-lettered by section 2(i) of the by Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1969 (Tamil Nadu Act 9 of 1969).]

(i) means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and

(ii) includes-(a) any such person who continues in

possession of lire land after the determination of the tenancy agreement;

(b) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;

(c) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or

(d) any such sub-tenant who continues in possession of the land riot withstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but

(iii) does not include a mere intermediary or his heir; Explanation. - A sub-tenant shall be deemed to be a cultivating tenant of the holding under the landlord if the lessor of such sub-tenant has ceased to be the tenant of such landlord;]”

11. Keeping the above said provision in mind, this court perused the records to know whether the plaintiff’s father was the cultivating tenant over the suit property? The PW1 evidenced that his father was a cultivating tenant under the 1st defendant’s father from the year 1985. However, no piece of record has been furnished to show that

the plaintiff's father was the cultivating tenant over the suit property except the Ex.A1. Upon perusal of Ex.A1, it is seen that the petitioner's father paid the tax on behalf of the 1st defendant's father, but the Ex.A1 does not show that the plaintiff's father cultivated the suit property. If at all the plaintiff's father cultivated the suit property, his name would have been entered or reflected in the Adangal, but here no such Adangal in the name of the plaintiff's father is produced. Further, had the plaintiff's father been the cultivating tenant over the suit property, his name would be registered in the Tenancy Records, but here no such tenancy record is produced.

12. The plaintiff counsel would submit that mere non-entering the name of the plaintiff's father and subsequently the plaintiff in the tenancy record does not taken away the valuable right of the plaintiff's father and plaintiff's tenancy rights over the suit property. In support of his argument, he is relying upon the judgment reported in 2009 (6) MLJ 1095. Upon hearing the argument of the plaintiff counsel, this court has perused the judgment of the Hon'ble High Court. In which the Hon'ble High Court clearly held in para 20 as follows,

“20. From the above judgments also, it is very clear that the main purpose of the provisions of the Tamil Nadu Lands Record and Tenancy Rights Act, 1969 is only to prepare and maintain a record of tenancy rights in respect of agricultural lands in Tamil Nadu. Further, the provisions of the Act-X, 1969 are

not declaratory of rights as cultivating tenants and it is common knowledge that there may be persons not fulfilling the definition of "cultivating tenant" at all, but, managed to secure an entry and such a person cannot secure his rights as a cultivating tenant. Similarly, there may be persons fulfilling the definition of a cultivating tenant, but, whose names may not be recorded in the record of tenancy rights register. That does not mean that they cease to be a cultivating tenant.”

13. Upon reading of the above said judgment in entirety, it is come to know that the plaintiff of that suit registered himself as a cultivating tenant in the tenancy record, but he failed to prove his possession over the suit property at the time of filing of the suit. Here in the case on hand, neither the plaintiff nor his father entered their name in the tenancy record, though the plaintiff claims that his father enjoyed the suit property as a cultivating tenant from the year 1985. Therefore, the above said judgment is not applicable to the case on hand. Upon perusal of the pleadings, it is come to know eventhough the plaintiff claimed that his father is a cultivating tenant over the suit property, the same has not been specifically denied in the written statement. However, superficially it was denied. As already said except Ex.A1, no other document has been produced by the plaintiff to show that his father was a cultivating tenant. Therefore,

based upon the Ex.A1, it cannot be held that the father of the plaintiff was a cultivating tenant over the suit property.

14. Assuming for arguments sake, that the plea of the plaintiff that his father was a cultivating tenant over the suit property is true, the next question will arise whether a cultivating tenant can transfer the tenancy rights. The answer of this court is 'No' because it is not a transferable right as there is no provision. For which this court is relying upon the judgment reported in Balu Pillai Case. The relevant portion is extracted as follows,

Balu Pillai @ Balasubramania Pillai vs Mahadevan

23. Transferability of the cultivating rights:-

The learned counsel appearing for defendants 5 to 7 would vehemently submit that the cultivating tenant has every right to transfer the leasehold right in favour of a third party. But, for the question put by this court before the learned counsel appearing for defendants 5 to 7 whether there is any provision either under the Tamilnadu Cultivating Tenants Protect Act, 1955 or under the Tamilnadu Agricultural Lands Record of Tenancy Rights Act dealing with transfer of cultivating right, he would submit that there was no such specific

provision under the Act recognizing the transfer of cultivating right by the cultivating tenants to a third party. But, the learned counsel appearing for defendants 5 to 7 banked on the decision of this court in RAMIAH NATTAR v. JAMBAKATHAMMA AND OTHERS (1977 TLNJ 157). That was a case where the question whether a legatee of the leasehold right inherits the same with all incidents of inheritability and transferability. In the said case, on facts, it was found that the tenant holding over bequeathed the leasehold right in favour of the first defendant. Firstly, it is found that the question whether the leasehold right can be transferred by way of an instrument was not specifically dealt with in that judgment. Secondly, the facts and circumstances of the above case would not apply to the facts of this case.

24. As the special Acts referred to above do not contemplate the right of transfer of the leasehold rights in favour of third parties, it is held that the recorded cultivating tenant has no right to alienate the leasehold right to a third party though he has got a right under the

Act to sub-let the properties to a third party. Ignoring the exclusive right of the landlord, the recorded cultivating tenant cannot simply sell away his leasehold rights in favour of a third party. Retaining his leasehold right, he can sub-let the premises to a third party.

15. Admittedly, in the above said case the Hon'ble High Court clearly held that a cultivating tenant cannot transfer the tenancy rights to a third party. But here the case on hand it was alleged that the plaintiff's father transferred the tenancy rights to his own son. Hence, the plaintiff can raise an objection for the applicability of said Balu Pillai case in the case on hand, since the tenancy right is transferred to the own son. In the Balu Pillai case itself, the Hon'ble High Court has clearly held that there is no provision in the Tamil Nadu Cultivating Tenants Protection Act 1955 or the Tamil Nadu Agricultural Land Record of Tenancy Rights Act to transfer the tenancy rights to the third party. When there is no such provision, the cultivating tenant cannot transfer the tenancy including to his legal heir, since, as per sec.2(aa) of the Tamil Nadu Cultivating Tenants Protection Act 1955, the legal heirs of cultivating tenant can inherit the cultivating property subject to proof of his physical labour. So, the law laid down in the Balu Pillai case is applicable to this case on hand also.

16. Assuming for arguments sake, that the plaintiff's father is having the right to transfer the tenancy to the plaintiff, let the court to discuss whether the plaintiff has fulfilled the ingredients as found in the sec.2(aa) of the Tamil Nadu Cultivating Tenants Protection Act 1955. The said section has clearly held that anyone who claims to be the cultivating tenant over a particular property has to contribute his own physical labour or that of any member of his family in the cultivation of such land.

17. Admittedly, in this case according to the evidence of PW1, he deposed that he is enjoying the suit property as a cultivating tenant and produced the Ex.A2 Adangal extract. Upon careful reading of the evidence of PW1, he never evidenced that he or his family members contributes their physical labour in the cultivation of the suit property, he just says he is enjoying the suit property, that evidence is not sufficient to fulfill the ingredients of section 2(aa) as above said. Further, the plaintiff did not examine any independent witness to prove his physical labour over the suit property.

18. The plaintiff heavily relied upon the Ex.A2 to Ex.A5 to prove his possession over the suit property. Upon perusal of the Ex.A2, it is seen that it is in the name of the 1st defendant. However, it is written in it as the plaintiff's father is proposed to cultivate the S.R.No.36. The written is extracted as follows for easy appreciation,

"மேற்கண்ட சர்வே எண்களில் 0.40.5 ஏர்ஸ் மட்டும்.

குப்புசாமி வண்ணியர் மகன் ராஜாராம் என்பவர் நஞ்சை

நிலத்தில் தற்சமயம் சம்பா சாகுபடி செய்ய உள்ளார் என
சான்றளிக்கப்படுகிறது.”

19. The Ex.A2 was issued only for getting the society loan, but not more than that. The Ex.A2 is also in the name of plaintiff's father but not in the name of the plaintiff. Therefore, it cannot be relied upon to prove the possession of plaintiff over the suit property.

20. Further, upon perusal of the Ex.X1, it is come to know that the plaintiff borrowed the agriculture loan from the Co-operative Society, but in which there is no particulars to show for which property the loan was sanctioned. However, in the Farmer Debt Card, the suit property is reflected. Upon perusal of the adangal extract attached with the Ex.X1, it is stated that the plaintiff is proposed to cultivate the property, but there is no recital that he cultivated the property. Therefore, it is seen that the plaintiff was not doing cultivation in the schedule of property from 2015 onwards, the Ex.A3 to Ex.A5 will not in any way to help the plaintiff to prove his possession over the suit property.

21. The Hon'ble High Court held that even a legal heir of the deceased cultivating tenant cannot claim to be the cultivating tenant though he inherited the property by legal heirship as per sec.2(aa) of Tamil Nadu Cultivating Tenants Protection Act, without proving his physical labour in the cultivating land in the following judgment

rendered by the Hon'ble High Court in WP(MD) No.8806 of 2012, Duraisamy Vs. The District Revenue Officer Dt:20.06.2022. In which the Hon'ble High Court held that when the person who had already applied or who has already been conferred with the status of cultivating tenant dies, the status also dies with him. The legal heirs of the deceased have to independently establish their status in a cultivating tenant. Applying the above said principle in the case on hand, though the plaintiff has not inherited the property, the claim of the plaintiff becomes worst, since he has not proved his physical labour in the suit property.

22. Therefore, at see the case in any angle, it is needless to say that the plaintiff has not proved the case that his father was a cultivating tenant over the suit property, subsequently he becomes the cultivating tenant of the suit property. Therefore, this court is not able to believe the case of the plaintiff and decide these issues against the plaintiff.

23. Issue No.2 :

Admittedly, the defendants have not claimed any counter claim in this suit. Hence it is not necessary to decide whether the defendants are in possession over the suit property or not? However, upon perusal of the Ex.X1, it is clear that the 1st defendant cultivated the suit property to the full extent. Further, the Ex.B3, Ex.B4, Ex.B9, Ex.B10 clearly proved that the 1st defendant is cultivating the suit property. Further, the defendants are the owners of the suit property. Hence, from the Ex.B9, it can decided

that the defendants are in possession over the suit property. Hence, this court is of the view that the defendants are able to prove their possession over the suit property and decide this issue in favour of the defendants.

24. Issue No.4:

Since, the issue no.1 to 3 are decided against the plaintiff, this issue is also decided against the plaintiff, since there is no other relief is entitled to the plaintiff including cost.

In the result,

- a) that the suit is dismissed in toto,
- b) that there will be no order of cost.

Dictated to steno-typist, computerized by him directly, corrected and pronounced by me in the open court, this day the 13th day of August, 2025.

Sd./-(P.Kumar)
Principal Subordinate Judge,
Thanjavur.

LIST OF WITNESS ON THE SIDE OF THE PLAINTIFF :-

PW1 – Thiru.Dhanavel (plaintiff)

PW2 – Thiru.K.Jayaraman, Co-operative Secretary

LIST OF EXHIBITS ON THE SIDE OF THE PLAINTIFF :-

Ex.A1	---	Kist Receipts (7 Counts)	Original
Ex.A2	26.09.2013	Adangal Extract	Certified Copy
Ex.A3	31.03.2016	Agricultural Loan Cancellation Certificate	Original
Ex.A4	24.02.2021	Agricultural Loan Cancellation Certificate	Original
Ex.A5	---	Agricultural Loan Pass Book	Original
Ex.X1	---	Document of Secretary (25 Pages)	Certified Copy

LIST OF WITNESSES ON THE SIDE OF THE DEFENDANTS :-

DW1 – Thiru.Manikandan (1st Defendant)

DW2 – Thiru.Mohan

DW3 – Tmt.Geetha, VAO

DW4 – Thiru.Sureshkumar, Co-operative Secretary

LIST OF EXHIBITS ON THE SIDE OF THE DEFENDANTS :-

Ex.B1	29.09.1999	Theervu Certificate	Certified Copy
Ex.B2	27.09.2005	Land Ownership Register in favour of Plaintiff's father	Certified Copy
Ex.B3	21.05.1996	Land Selling Order	Certified Copy
Ex.B4	22.07.2005	Patta Transfer Order of 1416 Pasali	Certified Copy
Ex.B5	21.05.2012	Patta No.438	Certified Copy
Ex.B6	25.08.2022	Death Certificate of Plaintiffs Grandfather Lakshmanan	Certified Copy

Ex.B7	---	Kist Receipts (7 Counts)	Original
Ex.B8	28.05.2012	'A' Register	Certified Copy
Ex.B9	21.05.2012	Patta No.437	Certified Copy
Ex.B10	---	Adangal Extracts (8 Counts)	Certified Copy
Ex.B11	23.03.2022	Letter from TNEB	Original
Ex.B12	14.12.2020	Applications of Pradhan Mantri Fasal Bima Yojana (3 Counts)	Hand copy
Ex.B13	---	Joint Farmers Notebook	Original
Ex.B14	29.06.1996	Savings Pass Book in favour of Plaintiff's Grandfather	Original
Ex.B15	20.10.1989	Debit Card	Original
Ex.B16	29.09.2006	Agricultural Loan Pass Book in favour of Plaintiff's Father	Original
Ex.B17	---	EB Card for the No.432-006-2226	Original
Ex.B18	---	Photos of Paddy Crops (7 Counts)	Original
Ex.B19	---	Electricity Bill Receipts (7 Counts)	Original

Sd./-(P.Kumar)
Principal Subordinate Judge,
Thanjavur.