

**IN THE COURT OF THE IV ADDITIONAL DISTRICT MUNSIF
SALEM**

Present : **Selvi. M. ARUNA, B.A., L.L.B., (Hons).,**

IV Additional District Munsif, Salem

Friday, dated this the 20th day of February 2026

O.S.No. 522 / 2015

CNR.No. TNSA06-000598-2015

1. K.Palanisamy

2. *P.Dhayanand

... Plaintiffs

/Versus/

1. The Block Development Officer,

Veerapandi Union.

2. The President,

Perumapatti Panchayat,

3. A.Kaliappan

4. * The Tahsildhar, Salem West Taluk, Salem

5. * The District Collectorate, Salem

6. *The Commissioner of land Reforms,

Secretariat, Chennai.

... Defendants

(Amended as per order in I.A 2/2022 dated 25.11.2022)

This suit originally taken on file of the Hon'ble I Additional District Munsif Court, Salem and then transferred to this court as per the order of the Hon'ble High Court

of Madras in ROC.No. 1692/A/2011/G1 dated 19.09.2018 and after trial came up before me for the final hearing on 23.01.2026 in the presence of Mr.G.Narasimhan Counsel for the Plaintiffs and Government pleader Mr.A.MadhanMohan, counsel for the defendants and upon perusal of the material records and after hearing the arguments of both sides and having stood over for consideration till this day, this court delivers the following:

JUDGMENT

1. This suit has been filed by the plaintiff for the relief of permanent injunction restraining the defendants and their men from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property and also restraining the defendants from obliterating, destroying and demolishing the Odai in the manner causing difficulties to the agricultural activities of the plaintiffs.

2. Brief averments of the plaint:

2.1. The plaintiffs submits that the 1st plaintiff is the absolute owner of the 1st item of the suit properties. Some properties in the 1st item of the suit properties were allotted to the 1st plaintiff under a registered Partition Deed dated 13.06.2001 in Document No. 826/2001. By virtue of the said partition, an extent of 0.56 cents in S.No.40/1 situated at Thumbadhulipatti Village, 1.66 acres in S.No.27/1, 1.90 acres in S.No.27/4, 0.96 acres in S.No.27/3A and 0.07 cents in S.No.27/3E were allotted to the share of the plaintiff. Further, the remaining

properties in Item No.1 of the suit properties that are an extent of 4.23 acres in S.No.28/2, 0.70 cents in S.No.29/3 and 0.85 cents in S.No.46/1 devolved upon the plaintiff by virtue of a Will executed by his mother. Out of 4.23 acres in S.No.28/2, the plaintiff is now in possession of 2 acres and the remaining extent was settled in favour of his son 2nd plaintiff. The plaintiffs are in continuous and peaceful possession and enjoyment of the properties in the 1st item without any interruption.

2.2. The plaintiffs further submits that there is an Odai (2nd item of the suit properties) situated on the western side of his property in S.No.40/1. The said Odai runs in north–south direction commencing from Kanjamalai and flowing towards north. The breadth of the Odai is about 52.5 feet and its depth is about 16 feet. The said Odai has been in existence for more than 100 years and it is the main source of irrigation for the agricultural lands in Nallampatty and Thumbadhulipatti Villages. The plaintiff and other agriculturists are depending upon the said Odai for irrigation purposes. The plaintiff is having about 1000 coconut trees in his lands and if the Odai is closed or destroyed, it will cause irreparable loss to the plaintiff and the agricultural activities will be seriously affected. The loss cannot be compensated in terms of money.

2.3. The plaintiff submits that the defendants, with ulterior motive and for the benefit of defendants 2 and 3, are attempting to close the Odai and lay a new

road and construct a new bridge over the natural channel. The second defendant has also passed a resolution for laying a new road and bridge at the instance of the third defendant. On 17.06.2015, the defendants along with their men came to the suit property and attempted to measure the Odai and the adjacent lands for the purpose of laying the proposed road and bridge. The plaintiff objected to the same. The defendants left the place stating that they would return and proceed with the work. Hence, apprehending interference and illegal acts on the part of the defendants, the plaintiff has filed the present suit for permanent injunction restraining the defendants from in any manner closing, demolishing or altering the Odai and also from interfering with the plaintiff's peaceful possession and enjoyment of the suit properties. Hence the suit.

3. Brief Averments of the Written Statement filed by the 1st Defendant and adopted by Defendants 2 to 6:-

3.1. The defendants denied all the allegations made in the plaint except those that are specifically admitted herein. The defendants submit that the plaintiff has not properly disclosed in which Survey Number the alleged Odai is situated. Even in the description of the second item of the suit property, the Survey Number of the Odai has not been mentioned. Hence, the plaint is vague and defective. The alleged ownership of the suit 'A' Schedule property by virtue of

partition deed and Will must be strictly proved by the plaintiff by way of oral and documentary evidence.

3.2. The defendants submit that it is true that an Odai is running on the western side of Survey No.40/1 and that it runs towards north. However, the said Odai is situated in Survey No.4/9 and not in the plaintiff's property as alleged. The said lands are Government Poramboke lands and classified as "Odai" in the village accounts. The defendants further submit that the plaintiff, who owns land in Survey No.40/1 on the eastern side of the Odai, has encroached upon an extent of 0.01½ cents, which is a pathway leading to the said Odai. The said pathway has been used by the local inhabitants for access to the Odai and for conducting their yearly religious ceremony known as "Natukkal". The defendants have taken steps to remove the said encroachment made by the plaintiff. In order to prevent such lawful action, the plaintiff has come forward with the present false and frivolous suit. The defendants categorically deny that they have any intention to close, demolish or destroy the said Odai. The defendants have never planned to lay any new road or construct any new bridge over the Odai as alleged by the plaintiff.

3.3. The defendants further submit that the Odai is running in Survey Nos.4/9, 6 and 7/1, which are classified as Government poramboke lands in the revenue records. The 1st defendant, being a Government official, is maintaining the

Odai properly in accordance with law. The defendants also deny the alleged incident said to have taken place on 17.06.2015. The defendants never came to the suit property to measure the land for laying any road or bridge, nor did they proclaim as alleged by the plaintiff that they would return to measure the property. The defendants submit that the description of the Odai and the alleged cause of action are vague and unsustainable. The suit is devoid of merits and has been filed with ulterior motive to prevent lawful action against the plaintiff's encroachment. Hence, the defendants pray that this Hon'ble Court may be pleased to dismiss the suit with exemplary costs.

4. Based on the pleadings and the documents, the following issues have been framed:

- 1. Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession of the 1st item of the suit properties?**
- 2. Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from obliterating, destroying and demolishing the 2nd item of the suit properties?**
- 3. To what other reliefs plaintiffs are entitled to?**

5. In order to examine the case of the plaintiffs, 1st plaintiff was examined as PW1 through him EX.A1 to A14 marked and EX.B1 was marked by the defendants during the cross of PW1 and one Mr. Eshwaran was examined as PW2 and on the side of defendants, Village Administrative Officer, Nallampatti Village has been examined as DW1 through him EX.B2 to B5 were marked.

5. DISCUSSION AND DECISION:

Issue No.1:- Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession of the 1st item of the suit properties? &

Issue No.2: Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants from obliterating, destroying and demolishing the 2nd item of the suit properties?

- 5.1. The learned counsel appearing for the plaintiffs argued that the 1st plaintiff has properties in Sr.No.40/1 in Thumbadhulipatti Village and also in Sr.Nos. 27/1, 27/4, 27/3A, 27/3E, 28/2, 29/3, 46/1 in Nallampatty Village. An Odai is running on the north -south direction and is situated on the western side of the land in Sr.No.40/1 which is the only source of irrigation of the agricultural lands for Thumbadhulipatti and Nallampatty vilages. While being so, the 1st defendant at the instigation of the 2nd and 3rd defendants came to the suit

properties along with VAO and Surveyor and attempted to measure the Odai and also attempted to measure the property of the plaintiffs which is situated on the eastern side of the Odai to fix the boundary stones in order to lay down a new road and new bridge in the Odai for the sole benefit of 2nd and 3rd defendants by destroying and closing the Odai. He further argued that the plaintiffs' possession of the 1st item of the suit properties has been established from Ex. A4 to A7 and the interference in the enjoyment of 1st and 2nd item of the suit properties has also established with the evidence of PW1 and PW2. Hence the suit may be decreed.

5.2. On the other hand, the learned counsel appearing for the defendant argued that the plaintiff alone had encroached 0.01/2 cents of land in the Odai which is pathway leading to the said Odai. When the plaintiffs are directed to remove the encroachments in the Odai, the plaintiffs had come forward with this false suit against the defendants and he further argued that from the evidence of PW1 and PW2 it is clear that the Odai is still in use and denied the allegations of attempting to lay down road and Bridge over the Odai.

5.3. According to the plaintiff, the 1st item of the suit properties are belonged to the 1st plaintiff by virtue of partition deed and a registered will. The property comprised in Sr.No.40/1 is situated in Thumbhadhulupatti Village and other

suit properties which are comprised in Sr.Nos. 27/1, 27/4, 27/3A, 27/3E, 28/2, 29/3, 46/1 are situated in Nallampatti Village. It is evident from the pleadings of the plaint that there is no dispute with regard to the properties comprised in Sr.Nos. 27/1, 27/4, 27/3A, 27/3E, 28/2, 29/3, 46/1 situated in Nallampatti Village. The dispute is only with regard to the property in Sr.No.40/1 in Thumbhadhulipatti Village. Therefore, the Ex.A2 which is the Will executed by the mother of the plaintiff and the revenue records in respect of the Sr.nos. 27/1, 27/4, 27/3A, 27/3E, 28/2, 29/3, 46/1 are not considered by this court. It can be seen from the perusal of EX.A1 which is the registered partition deed bearing Doc.No. 826/2001 Dated 13.06.2001 which had been executed between the Karumalai Gounder, plaintiff and others in which A schedule property has been allotted to the 1st plaintiff and his father Karumalaigounder. Out of many properties listed in the A schedule of the said partition deed, the 0.56 cents of land comprised in Sr.No.40/1 is also allotted to the 1st plaintiff and his father. It can be seen from the EX.A3 dated 25.04.1994 which is the patta for Sr.No.40/1 that stands in the name of the plaintiff's father. The defendants also not denied the possession of the plaintiff over the property in Sr.No.40/1. Thus, the 1st plaintiff establishes his title and possession of the property in respect of property in Sr.No.40/1 of Thumbhadhulipatti Village.

5.4. Further, according to the plaintiff that the Odai is situated to the western side of the property in Sr.No.40/1 which is running in the north south direction. It is clear from the written statement that the defendants also admitted that the same. The FMB of the Thumbadhulipatti Village (EX.A11) also reflects the same. It could be seen from the EX.B1, 'A' register of Thumbadhulipatti Village that the Odai is running in Sr.4/9, 7/1 and 6. The contention of the plaintiff is that the defendants are attempting to obliterate and destroy the Odai by measuring the properties of the plaintiff and Odai with an intention to lay down new road and new bridge but the same was denied by the defendants and contended that defendants are attempted to measure the properties of the plaintiff and Odai only to know the extent of encroachments made in the Odai which has been encroached by the plaintiffs. Thus, the burden lies on the plaintiffs to prove the interference made by the defendants with the plaintiffs' peaceful enjoyment of the suit properties and also from utilizing the water from Odai.

5.5. This court has to consider whether the plaintiffs have established that the defendants had measured the suit properties including the Odai only with an intention to close the Odai and to lay down new road and new bridge across the Odai. The 1st plaintiff has been examined as PW1 and he reiterates the averments made in the plaint in his chief examination. One Mr. Eshwaran also

examined as PW2 in support of the plaintiff case. PW2 in his chief examination deposed that the defendants 1 to 3 came to suit properties and tried to measure the same to lay new road and bridge by closing the Odai. Further he in his chief examination deposed that “5. இந்த சங்கதிகள் எனக்குத் தெரியும். பிரதிவாதிகளால் பிரச்சனை ஏற்பட்ட 17.06.2015 அன்று எதேச்சையாக நான் தாவா சொத்துக்கு சென்ற பொழுதுதான் இந்தப் பிரச்சனை எனக்கு தெரியவந்தது. நான் தாவா சொத்துக்கு சென்ற சமயத்தில் பிரதிவாதிகள் குறிப்பாக 1 முதல் 3 பிரதிவாதிகள் அப்பொழுதுதான் வெளியேறிக் கொண்டிருந்தனர். நான் அதை பார்த்தேன். அவர்கள் வெளியேறிய பொழுது தான் நான் வாதியினுடைய தாவா சொத்திற்கு சென்றேன்.”

- 5.6. It is to be noted that during the cross examination of PW2, he admitted that he is the relative of the plaintiff and he is hailing from Naickkenpatti Village. Further PW2 in his cross examination deposed that “அந்த ஓடையை அளக்க அரசு அலுவலர்கள் வந்தார்களா என்றால் ஆமாம். வாதி தடுத்ததால் அவர்கள் அளக்கவில்லை. அதற்கு பின்னிட்டு மீண்டும் அளக்க வரவில்லை. தடம் போடுவதாக யார் சொல்லி எனக்கு தெரியும் என்றால் வாதி பழனிசாமி சொல்லி எனக்கு தெரியும். அதிகாரிகளிடம் எதற்காக அளக்கிறார் என்று நான் கேட்டேனா என்றால் இல்லை.”

- 5.7. From the careful appreciation of evidence of PW2, it is clear that PW2 came to the suit properties on the said date of occurrence while the defendants are leaving from the suit property. PW2 did not directly enquired the defendants about the purpose of measuring the suit properties whether they measured the suit properties to lay down any road and bridge or for any other purpose. However, he admitted that he knows the purpose of measurement of the suit property from the plaintiff only. Therefore, the PW2 cannot be treated as direct witness as he was not known about the purpose of measurement of the suit properties by the defendants directly. The evidence of PW2 is hearsay evidence with respect to the purpose of measurement of suit properties by defendants. It is settled law that the hearsay evidence is no evidence and it is inadmissible. Hence, the evidence of PW2 fails to corroborate the evidence of PW1.
- 5.8. Further, the plaintiff in his pleadings stated that the 2nd and 3rd defendants had passed a resolution for laying down new road and new bridge in the Odai. But the plaintiff has not produced the alleged resolution said to be passed by the 2nd and 3rd defendants before this court. It is to be noted that PW1 and PW2 have admitted that the Odai is still in existence and is being in use, which clearly establishes that the Odai is not obliterated or closed.

5.9. Further the VAO, Nallampatti Village who is in additional charge of Thumbadhulipatti Village has been examined as DW1 and produced the FMB for the Odai as EX.B2 to B4 and also produced the Joint rough sketch of both the Villages of Nallampatti and Thumbadhulipatti drawn by the surveyor as EX.B5. DW1 in his chief examination deposed that the Odai is under the Supervision and maintenance of 1st defendant and information with regard to encroachments of Odai was received and the defendants attempted to measure the Odai. On measurement of said Odai it reveals that landholders on both sides of the Odai including the plaintiff have been encroached the Odai. Further landholders prevented the officials from measuring the Odai and filed this this false suit. Nothing contrary has been elucidated from the DW1 during his cross examination.

5.10. On the other hand, the plaintiff has not produced any oral or documentary evidence to establishes that the defendants were attempted to measure the suit properties only with an intention to destroy, obliterate or close the Odai by laying down new road and new bridge. While the plaintiff is failed to prove that the defendants were measured the suit properties to destroy and close the Odai for laying road and Bridge, the reason stated by the defendants that they have tried to measure the suit properties only to find the encroachments over the Odai seems acceptable. An Odai is falls under the category of water body

for the use of public which is under the maintenance of the officials of defendants. As a governing authority of a public water body, it is the bounden duty of the defendants to maintain the Odai without any encroachments. Moreover, there is absolutely no evidence to prove any overt act of interference by the defendants with the peaceful possession and enjoyment of the suit properties. Hence, the defendants cannot be prevented from maintaining of the Odai by an order of permanent injunction.

5.11. Thus, in the light of the above observation, this court is of the considered view that the plaintiff has failed to establish that the defendants are interfered with the peaceful possession and enjoyment of the suit properties and also failed to prove that the defendants are tried to obliterate and close the Odai with sufficient oral and documentary evidence. Hence, the plaintiff is not entitled to the relief of Permanent Injunction against the defendants.

Thus, the issue No. 1 and 2 are answered in negative.

6. To what other relief plaintiffs are entitled to?

Considering the nature and circumstances of the case, this court is not inclined to grant any other reliefs. Each party shall bear their own cost.

In the result, this suit is Dismissed without cost,

Directly typed by me in my laptop, formatted by my steno-typist, corrected and pronounced by me in the open court on this the 20th Day of February , 2026.

IV Additional District Munsif,
Salem.

List of witness examined on the side of plaintiffs:-

1. PW1 – K.Palanisamy (1st Plaintiff)
2. PW2 – Eawaran (3rd party)

List of documents marked on the side of plaintiff:-

S.No.	Date	Particulars of the document	Nature of the document	Rank of Exhibits
1.	13.06.2001	Partition deed between the 1 st plaintiff and his family members registered as document No.826/2001	Registered Copy	EX.A 1
2.	21.01.1993	Will executed by 1 st plaintiff's mother in favour of the plaintiff	Registered Copy	EX.A2
3.	25.04.1994	Patta No.20 for Sr.No.40/1	True Copy	EX.A3
4.	22.11.2010	Patta No.190 for Sr.No.28/2 & 29/3	True Copy	EX.A4

5.	19.12.2007	Patta No.211 for Sr.No.46/1	True Copy	EX.A5
6.	26.05.1994	Patta No.48 for Sr.No.27/1, 27/3A, 27/4, 27/3	True Copy	EX.A6
7.	09.01.2012	Patta No.336 for Sr.No.27/3E stands in the name of 1 st plaintiff's father	True Copy	EX.A7
8.	--	FMB for Survey No.28/2, 29/3	True Copy	EX.A8
9.	--	FMB for Survey No.46/1	True Copy	EX.A9
10.	---	FMB for Survey No.27/1, 27/3A, 27/4, 27/3	True Copy	EX.A10
11.	--	FMB for entire Thumbathulipatti Village, showing the odai running the across 1 st plaintiff property	True Copy	EX.A11
12.	--	FMB for Survey No.40/1, 40(Odai)	True Copy	EX.A12
13.	--	FMB for entire Nallampatti Village, showing the odai running the across 1 st plaintiff property	True Copy	EX.A13
14.	--	FMB showing Odai in Sr.Nos. 47. 27, 46, 48	True Copy	EX.A14

List of witness examined on the side of Defendants:-

DW1- Karthikeyan

List of documents examined on the side of Defendants:-

S.No.	Date	Particulars of the document	Nature of the document	Rank of Exhibits
1.	--	'A' Register	True Copy	EX.B1
2.	--	Certified copy of the FMB in S.No.4 of Thumbathulipatti Village, Salem West Taluk	True Copy	EX.B2
3.	--	Certified copy of the FMB in S.No.6 of Thumbathulipatti Village, Salem West Taluk	True Copy	EX.B3
4.	--	Certified copy of the FMB in S.No.7 of Thumbathulipatti Village, Salem West Taluk	True Copy	EX.B4
5.	--	Joint plan of Nallampatti ad Thumbathulipatti	Original	EX.B5

IV Additional District Munsif,
Salem.

IV ADMC, Salem.

Draft/Fair Judgment Copy

O.S.No.522/2015 (AFT)

Date. 20.02.2026.