

IN THE COURT OF THE DISTRICT MUNSIF OF SULUR

PRESENT: Tmt. N.Renuga, B.A., B.L.,

District Munsif, Sulur.

Thursday the 14th day of July 2022

Original Suit No. 128 of 2021

CNR.No.TNCB170001622021

1. V.Chandrasekar

2. P.Velmurugan

...Plaintiffs

/vs/

P.Rajaselvi

...Defendant

This suit coming on 05.07.2022 for final hearing before me in the presence of Thiru.S.Kannan, advocate for the plaintiffs, and the defendant being called absent set exparte, and upon perusing records and having stood over for consideration till this day, this Court delivered the following:

JUDGMENT

Suit for permanent injunction restraining the defendants, their men, materials, agents, subordinates and relatives be and are hereby in any manner altering or commit any damage the physical features or encumbering the suit cart track in schedule "B" of the suit property and for permanent injunction restraining the defendants, their men, materials, agents, subordinates and relatives be and are hereby any way disturbing with the plaintiff's right and peaceful enjoyment of using the suit "B" schedule cart track to reach their lands in referred in schedule "A" of the suit property and for the cost of the suit under section 27(c) of TamilNadu Court Fee and Suit Valuation Act.

2. The Brief averments of the Plaint as follows:

The plaintiffs are the absolute owner of the "A" schedule as per registered settlement deed dated 20.04.1988 registered No.649/1988. The suit properties and other properties also originally in the name of viz., R.Senniyappan, R.Marappan and R.Rangasamy to execute the family arrangement in registered partition deed on 12.06.1970 registered No.707/1970 and has been possession enjoyment of the same. The partition deed to clearly mentioned the general class and to exclusively mentioned in the path way rights of "க.ச 12 நெ.காலையில் தென்வடலாக 20 அடி அகலத்தில் உள்ள மாமூல் வழித்தடத்தில் க.ச.13 நெ.காலைக்கு நம்மில் மூவரும் வண்டி வாகனங்கள் ஓட்டி அனுபவித்துக் கொள்ள வேண்டிய" and with specific boundaries along with the rights of cart tack by virtue of the above registered partition deed. The 2nd plaintiff's father Palaniappan to purchased the above entered properties by way of registered sale deeds in 17.01.1974 doc.No.11/1974 and 31.05.1974 doc.No.872/1974 and the two sale documents also mentioned that class of exclusive cart tack pathway rights. The 2nd plaintiff's father Palaniappan to execute the registered settlement deed dated 20.04.1988 in favour of 2nd plaintiff referred in the "A" schedule property and he has been exclusive possession and enjoyment of the same as absolute owner. The 2nd plaintiff to executive the part and partial of the properties to settle infavour of the 1st plaintiff by virtue of two settlement deeds in various situation in 12.05.2010, doc.No.4474/2010 and 05.10.2017 doc.No.8855/2017 and the 1st plaintiff has been exclusive possession and enjoyment of the same as absolute owner. The two settlement documents also to mentioned that class of exclusive cart tack pathway rights. The defendant to purchase the property in S.F.No.12 in one part of sub division S.F.No.12/1. On 07.12.2020 the one Kaliyappan to execute the registered sale deed No.13695/2020 in favour of defendant and the cart track pathway rights illegally suppress the facts to create the defendant's sale document. The property referred in "B" schedule is a 20 feet width cart track is mentioned the ancient parent documents in S.F.No.12 of the property. On 14.06.1946 the one Marappa gounder to purchase the S.F.No.12 in one part of property in the sale deed No.1001/1946 and on

17.12.1953 the one Ammasaiakkal to purchase the S.F.No.12 in one part of property in the sale deed No.2013/1953 and on 10.07.1957 the one Senniyappan to purchase the S.F.No.12 in one part of property in the sale deed No.1413/1957, "இந்த காலையிலிருந்து தென்வடலாக 20 அடி அகலத்தில் மாமூலாக க.ச.13 நெ.காலைக்கு போகும் வண்டித்தடம் விட்டுவிட வேண்டியது" to clearly mentioned that the exclusive pathway rights in the suit "B" schedule. On 19.05.2014 the one Senniyappan and others to arrange the family partition in their properties and including in S.F.No.12/3, in the partition deed No. 4705/2014. In the partition document to admit the pathway and to separate the western side of south-north path way portion of S.F.No.12/3. The property referred in "B" schedule is a 20 feet width cart track running via., western parts of south – north in S.F.No.12/3 and 12/1. The "B" schedule cart track, in S.F.No.11 is the rain water stocks pool (Kuttai) to started western side of S.F.No.12/3 in east-west 20 feet width cart track to running as south-north and to join the S.F.No.12/1 in western side east-west 20 feet width cart track to reach the existing Thar Road in Thekkalur village in S.F.No.687/5 and S.F.No.687/6 to running the east-west of Thekkalur to Semandampalayam existing Panchayat road.

The plaintiffs and defendant are using the said cart track to reach their lands. The said cart track is in existence for 1946 onwards and it is specifically mentioned in the recitals of the registered sale deeds No.1001/1946, 2013/1953, 1413/1957 and 4705/2014. The plaintiff is enjoying the suit "B" schedule cart track openly, continuously, uninterrupted as a easement right by prescription cart track. Now from 20.07.2021 onwards defendant is blocked the wire fencing and destroying cart track for using heavy earth mover to disturb the plaintiff's exclusive right of enjoyment of the "B" schedule of the cart track. Hence, the plaintiff is coming forward with the suit for permanent injunction. Hence, this suit.

3. On summons the defendant have not appeared and become exparte on 28.10.2021.

4. Points for consideration

Whether the plaintiff is entitled permanent injunction as prayed for?

5. On the side of the plaintiff, the 2nd plaintiff has examined himself as PW.1 and Ex.A1 to Ex.A.12 has been marked.

6.Points

Heard learned counsel for plaintiff. The 2nd plaintiff examined himself as PW1 and narrated that one Senniyappan and others had executed the family arrangement in registered partition deed dated on 12.06.1970 registered doc.No.707/1970 is marked as Ex.A.1. The 2nd plaintiff's father Palaniappan purchased property from Senniyappan by way of registered sale deed dated on 17.01.1974 in doc.No.11/1974 is marked as Ex.A.2. One Karuppathal and other, executed the registered sale deed dated on 31.05.1974 doc.No.872/1974 is marked as Ex.A.3. The 2nd plaintiff's father Palaniappan executed the registered settlement deed dated 20.04.1988 in favour of 2nd plaintiff is marked as Ex.A.4. The 2nd plaintiff executed the registered two settlement deeds dated 12.05.2010, 05.10.2017 in favour of his son the 1st plaintiff vide doc.No.4474/2010, 8855/2017 are marked Ex.A.5 and A.6 respectively. The sale deed in favour of one Marappa gounder, vide doc.No.1001/1946, dated 14.06.1946 is marked as Ex.A.7. One periyakaliyappa gounder executed the registered sale deed in favour of Ammasaiakkal vide doc.No.2013/1953, dated 17.12.1953 is marked as Ex.A.8. The periyakaliappan gounder execute the registered sale deed in favour of Senniyappan vide doc.No.1413/1957, dated 10.07.1957 is marked as Ex.A.9. The Senniyappan and others arranged the family partition in respect of their properties in doc.No.4705/2014, dated 19.05.2014 is marked as Ex.A.10. The S.N.Kaliyappan executed sale deed in favour of P.Rajaselvi, vide doc.No.13695/2020, dated 07.12.2020 is marked as Ex.A.11. The FMB for S.F.No.687 of Karumathampatti village, S.F.12 and S.F.No.13 of Semmandampalayam village is marked as Ex.A.12.

Hence, on perusal of these documents the plaintiff's are got absolute right over the suit "A" schedule property. The pathway which is mentioned in "B" schedule property is not mentioned in Ex.A.11, i.e., the defendants sale deed. On perusal of Ex.A.1 to A.10 there was an 20 feet cart track in existence from the year 1946

through document No.7. Hence, the existence of pathway proved the plaintiff's documents Ex.A.1 to A.10. Hence, the plaintiff is have a right to product his pathway right over the "B" schedule cart track hence, the plaintiff entitled for the relief of permanent injunction as prayed for.

In the result, the suit is decreed in favour of the plaintiff by granting permanent injunction restraining the defendants, their men, materials, agents, subordinates and relatives be and are hereby in any manner altering or commit any damage the physical features or encumbering the suit cart track in schedule "B" of the suit property and permanent injunction restraining the defendants, their men, materials, agents, subordinates and relatives be and are hereby any way disturbing with the plaintiff's right and peaceful enjoyment of the suit "B" schedule cart track to reach their lands in referred in schedule "A" of the suit property. No cost.

Dictated to the Steno-typist and directly typed by her, corrected and pronounced by me in open court this the 14th day of July 2022.

**District Munsif,
Sulur.**

List of witnesses on plaintiffs side:-

PW.1- Velmurugan

List of documents on plaintiffs side:-

Ex.A1	12.06.1970	Senniyappan and others executed the partition deed registered doc.No.707/1970	Certified copy
Ex.A2	17.01.1974	Sale deed in favour of Palaniappan by way of registered sale deed doc.No.11/1974	Certified copy
Ex.A3	31.05.1974	Karuppathal and other to execute the registered sale deed dated doc.No.872/1974	Certified copy
Ex.A4	20.04.1988	Palaniappan executed the registered settlement deed in favour of Velmurugan	Certified copy
Ex.A5	12.05.2010	Velmurugan executed the registered settlement deed in favour of his son Chandrasekar vide doc.No.4474/2010	Certified copy

Ex.A6	05.10.2017	Velmurugan executed the registered settlement deed in favour of his son Chandrasekar vide doc.No.8855/2017	Certified copy
Ex.A7	14.06.1946	Sale deed in favour of Marappa gounder vide doc.No.1001/1946	Certified copy
Ex.A8	17.12.1953	periyakaliyappa gounder executed the registered sale deed in favour of Ammasaiakkal vide doc.No.2013/1953	Certified copy
Ex.A9	10.07.1957	periyakaliappan gounder executed the registered sale deed in favour of Senniyappan vide doc.No.1413/1957	Certified copy
Ex.A10	19.05.2014	Senniyappan and others executed the partition deed vide doc.No.4705/2014	Certified copy
Ex.A.11	07.12.2020	S.N.Kaliyappan executed sale deed in favour of P.Rajaselvi	Certified copy
Ex.A.12	---	FMB for S.F.No.12, S.F.No.687, S.F.No.13	Online copy

List of witnesses and documents on defendant side:-

Nil

**District Munsif,
Sulur.**

Draft/Fair/Copy of
Judgment
O.S.No.128/2021
Dated:14.07.2022
DMC, Sulur.

