

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CUDDALORE

Present: Selvi.B.Phebe, B.A.,LLB.,

Additional District Munsif, Cuddalore

Wednesday, the 10th day of June – 2026

O.S.No.398/2017

J.Jayachandran

....Plaintiff

-Vs-

1. Velmurugan

2. Velumani

3. Sivakolundu

4. The Thasildar,

Cuddalore Taluk, Cuddalore.

5. The Revenue Divisional Officer,

Cuddalore Taluk.

6. The Sub-Collector,

Cuddalore District – 607 001.

7. The District Collector, rep. of

State of Tamilnadu, Cuddalore District – 607 001.

....Defendants

This suit came up for final hearing before this court on 22.04.2026 in the presence of learned Advocate Mr. B.Sivasubramanian for plaintiff, learned Advocate Mr. R.Gururaj for the defendants 1 to 3, defendants 4 to 7 remained exparte, upon perusal of records and having stood over for consideration till this day, this court delivers the following:

JUDGMENT

The Suit for declaring plaintiff's title and for Recovery of Possession directing the defendants 1 to 3 to handover the possession of 1st item of suit property to the plaintiff within stipulated time and for Mandatory Injunction directing the defendants 5 to 7 to remove the obstruction in item No.2 and to directing the defendants 4 to 7 to measure the suit items.

(Amended as per order in I.A.98/2019 dated 06.06.2019)

2. The case of the plaintiffs in brief is as follows:

(i) The plaintiff's great grandfather Adhimoola kounder and his two sons Ramanuja Kounder and Munssamy kounder, mortgaged the 1st item of suit properties to one Veerasamy Naidu on 02.01.1928 bearing old S.No.316/9 corresponding to New S.No.11/8. The plaintiff's grandfather is Munusamy and he owned property bearing S.No.11/8. Munsusamy's son is Jayaraman, the father of plaintiff herein. The above said item was occupied by the defendants 1 to 3, who are grandsons of Ramanuja kounder.

(ii) The police officials did not take any action as against the defendants 1 to 3 herein and so the plaintiff issued notice on 28.08.2017 to the defendants 1 to 3 calling upon them to vacate the land in S.No.11/8 and S.No.11/3, for which they replied on 04.09.2017. The plaintiff learns that the defendants occupy entire property in S.No.11/8 -0.40 cents and so only they are not allowing the surveyor to measure the property and not vacating the suit properties. The defendants 1 to 3 did

not say between whom oral partition took place after the death of Ramanujam.

(iii) The defendants 1 to 3 have also occupied the S.No.11/3-0.46.0 ares, 2nd item of suit properties which is Neervazhi Poromboke leads to S.No.11/8 as pathway and the said S.No.11/3 is adjacent to plaintiff land bearing S.No.11/8. The defendants 1 to 3 are preventing officers of survey department from measuring the suit properties. The plaintiff has given several complaints to the Revenue Officials. The revenue officials did not take any steps to measure the suit properties. The plaintiff again gave complaint to police station on 08.02.2017.

(iv) The defendants 1 to 3 are not only occupying the 1st item of the suit property but they are also occupying the 2nd item of suit property and is preventing ingress and egress by the plaintiff to his other lands. The defendants 1 to 3 further contend in their reply notice that the plaintiff brother is also having equal shares as plaintiff. There is no bar in law that any person can protect the interest of the entire family. The plaintiff being one among the co-sharer is bound to protect the interest of his family members. Moreso, the patta stands in the name of plaintiff's grandfather Munusamy for the 1st item of the suit property. "A" register to the said item is in the name of plaintiff's grandfather Munusamy.

(v) The plaintiff's father Jayaraman filed a suit for partition as against his siblings in O.S.No.192/1987 on the file of Sub-Court, Cuddalore and the 1st item of suit property here is referred as his family property in S.No.11/8- 0.20 cents and a preliminary decree was passed on 28.10.1991 in favour of plaintiff's father.

Despite it D1 to D3 have occupied suit property. Hence the suit.

3. The Gist of the Written statement filed by the Defendant:

(i) The plaintiff has not given the relationship of parties or the genealogy properly. There is no clarity in the plaint, either in the body of the plaint or in the prayer. It is true that it was mortgaged to Veerasami Naidu by Adimoolam and his 2 sons. However, the plaintiff has not stated how Munusami became the owner of item 1. There is no tracing out of title. Plaintiff does not claim possession also. He has not also stated whether Munusami was in possession. This is only because Munusami had no title whatsoever nor was he in possession at any time. There is not even a whisper about any partition.

(ii) The fact is that after Ramanujam died, there was an oral partition between the issues of Ramanujam on the one hand and Munusami on the other. In the oral partition suit item 1 fell to the share of Ramanujam's issues. Ramanujam's son Ranganathan obtained suit item 1 for his share. Ranganathan took possession of suit item 1 and was in possession and enjoyment of suit item 1. Defendants 1 to 3 have also prescribed title by adverse possession by long and uninterrupted usage.

(iii) Since Ramanujam had died, patta was transferred to the name of Munusami. Subsequently, it was not got changed. That will not confer plaintiff any right. Item 2 in suit is described as S.No.11/3 Hec.0.46.0. No document has been filed in this connection. Item 2 is actually poramboke property.

Defendants 1 to 3 are in possession of item 2 for a very long period. Actually, Ramanujam was in possession of suit item 2 and then Ranganathan was in possession and now these defendants are in possession. These defendants have prescriptive right against the whole world. There is a house in the property occupied by defendants 1 to 3.

(iv) Whenever plaintiff required money he used to ask these defendants for money. Since plaintiff made it a habit and since these defendants refused to pay, the present suit has been filed. In any event, it is only for the government to question it. Plaintiff has no locus standi to do so. The suit is untenable. The question of measurement of properties did not arise. There was no attempt at measurement and no obstruction. These defendants are not aware of any legal notice. The alleged police complaints are self serving.

(v) If the oral partition is denied, then, only a suit for partition, by impleading all items and all sharers has to be filed. Plaintiff alone cannot claim title or right. There are others born with him. Plaintiff has referred to a suit O.S.No.192/1987 in the Sub-Court, Cuddalore and has stated that item 1 in suit is also included in the suit and that a preliminary decree was passed. These defendants are not parties to the suit and hence the decree in O.S.No.192/1987 is not binding on them. It was only a suit for partition between the heirs of Munusami.

(viii) The suit is clearly barred by limitation. The averments regarding suit item 2 are also untenable. The causes of action for both items are totally unconnected. Therefore, a single suit will not lie. The suit is bad for misjoinder of causes of action and for multifariousness. The suit is not also properly valued for purposes of court fees and jurisdiction. Hence sought to dismiss the suit with compensatory cost.

4. Records were perused and the following issues were framed:

1. Whether the plaintiff is entitled for the relief of declaration of title as prayed for?
2. Whether the plaintiff is entitled for the relief of recovery of possession?
3. Whether the plaintiff is entitled for the relief of easementary right as prayed for?
4. Whether the plaintiff is entitled for the relief of Mandatory injunction as prayed for?
5. Whether the suit is not valued for purposes of court fees and jurisdiction?
6. Whether the suit is barred by limitation?
7. To what other relief the plaintiff is entitled to?

5. Issue No.3 is deleted as the said prayer is given up in the amendment I.A.No.98/2019 dated 06.06.2019.

6. Records were perused and the following Additional issues were framed:

1. Whether the suit is bad for non-joinder of necessary parties?
7. Witness PW1 is examined and Ex.A1 to Ex.A17 were marked on the

plaintiff's side and one more additional witnesses were examined as PW2, and Ex.X1 is marked through him. Witness DW1 is examined, and ExB1 to ExB6 were marked on defendant's side and four more additional witnesses were examined as DW2 to DW5.

8. Arguments:

(i) a. **The learned counsel for the plaintiff reiterated the plaint averments and argued that** the suit property is comprised in S.No.11/8 and 11/3. The defendant have occupied the suit property and is obstructing the plaintiff from entering into their property. The defendant have admitted the mortgage. The defendant have not pleaded any adverse possession. No amount of evidence can be looked into without pleadings. As for ExB3 and ExB4 is concerned, VAO has no power to issue the same. ExB3 and ExB4 pertains to S.No.11/9. The Adangal does not also contain any note, as to, for what purpose it was issued. No document or Patta were filed in the name of Ramanujam.

b. Further DW1 in his evidence has admitted that, he has grabbed the suit property and is in possession of the same. No boundaries were provided for Item No.2 of suit property as it is நீர்வழி புறம்போக்கு land.

(ii) a. **The learned counsel for the defendant reiterated the averments in the written statement and argued that,** the plaintiff has failed to state as to whether the simple Mortgage in favour of Veerasamy was discharged or

not. Further the plaintiff has also not stated as to whether there is any oral Partition or not. The plaintiff has pleaded that the defendants 1 to 3 have trespassed into the suit property but has failed to state the date of trespass. Further when there are 2 brothers only one cannot claim the exclusive possession. O.S.No.192/1987 is filed between the father and sons for partition and a Preliminary decree was passed. Even if the father is the owner, the plaintiff cannot seek exclusive title over it. Only patta is filed. The tile for item No.1 is not proved by the plaintiff. No civil suit would lie for water body. As for Item No.2 is concerned no description and boundary is given. The suit is also bad for non-joinder of necessary party. Further there is no proof for pathway.

(iii) In reply to the above, the plaintiff argued that the suit is not hit by non-joinder of necessary parties as this is not a partition suit. The suit property is owned by Munusamy and patta stands in his name. The burden to prove oral partition lies on the defendants.

9. Heard both sides. Perused the records.

10. Analysis:

(i) The case of the plaintiff is that the suit property in S.No.11/8 belongs to the plaintiff. Property in S.No.11/3 is a Hydrostatic Poramboke land. The defendants 1 to 3 are occupying the 1st and 2nd item of suit property and is preventing the plaintiff from entering the suit property and other properties. Patta

and 'A' register stands in the name of Munusamy for 1st item of suit property. In O.S.No.192/1987 preliminary decree was passed on 28.10.1991 in favour of plaintiff's father with regard to suit property. To prove his case plaintiff has relied on ExA1 to ExA17 and also ExX1.

(ii) **ExA1** is the Mortgage Deed dated 02.01.1928 in Doc.No.829/1928 executed by Adhimoola Kounder, Ramanuja Kounder and Munusamy Kounder in the name of Veerasamy Naidu with regard to item 1 of suit property and other properties. **ExA2** is the Family members genology. **ExA3** is the Petitions given by the plaintiff to the District Collector on 13.02.2017, 26.09.2016, 02.01.2017, 30.01.2017 stating that the plaintiff has given a petition on 08.02.2016 for removing encroachment but no action was taken on it. Even after payment, the surveyor has not turned up for measuring the suit property. **ExA4** is the proceedings of RDO dated 15.03.2016 forwarding the petition dated 08.02.2016 for further action. It further has the order dated 22.02.2017 by BDO which states that the defendants have encroached upon the suit property in S.No.11/8. It also has a proceeding of RDO dated 15.03.2016 and proceedings of Sub-Collector dated 22.03.2017.

(iii) **ExA5** is the Legal notice dated 02.04.2017 to Tahsildar, RDO, Sub-Collector and District Collector to evict defendant from encroachment. **ExA6** is the Acknowledgment cards. **ExA7** is the Complaint by Jayachandran by SI dated 08.02.2017 stating that he is residing in S.No.11/8 but the defendants have

encroached the said property and is preventing the revenue officials from measuring the same and is also threatening to kill him. **ExA8** is the CSR.205/2017 for complaint dated 02.06.2017. **ExA9** is the Reply notice of the defendants. **ExA10** is the 'A' register for property in old S.No.316/18 New S.No.11/8 it stands in the name of Munusamy in patta No.335. **ExA11** is the Preliminary Decree in O.S..192/1987 dated 28.10.1991 between Jayaraman and the defendants 1.Varatharajan, 2.Arumugam, 3.Ramalingam, 4.Visalatchi, 5.Dhanalakshmi, 6.Panchavarnam, 7.Krishnamoorthy, 8.Rasathi, 9.Indrani, 10.Savithri. It comprises of 34 items of properties in 'A' schedule, 2 items in 'B' schedule, 2 items in 'C' schedule and 4 items in 'D' schedule. The 3rd item of 'A' schedule property is property in S.No.316/18 New S.No.11/8 comprising 0.08 ares of land. The preliminary decree is partly decreed giving 1/5th share in A to C schedule to plaintiff and 1/7th share in 'D' schedule to plaintiff.

(iv) **ExA12** is the 'A' register for property in S.No.11/3 states it to be a government poramboke property and pathway. **ExA13** is the Kist receipt of property in Patta No.335 and others in favour of Jayarama kounder dated 06.02.1988. **ExA14** is the Adangal for Fassili 1421, 1422, 1423, 1424 (2011-2014) for property in S.No.11/8 in favour of A.Munusamy stating her sugarcane cultivation. **ExA15** is the CSR in 639/2025 for complaint dated 30.09.2025. **ExA16** is the CSR in 640/2025 for complaint dated 01.10.2025. **ExA17** is the FIR in Cr.No.269/2025 dated 04.10.2025. **Ex.X1** is the report of VAO.

(v) The case of the defendants 1 to 3 are that the plaintiff has given wrong genealogy and has not stated as to how Munusamy became the owner of Item 1 of suit property. Further the plaintiff does not claim any possession nor stated whether Munusamy was in possession. After the death of Ramanujam there is oral partition between issues of Ramanujam and Munusamy. Item No.1 of suit property was given to Ramanujam. Accordingly Ranganathan obtained suit item 1 and took possession of the same. The plaintiff has not filed any document with regard to Item No.2 of suit property. If it is a நீர்வழி புறம்போக்கு land plaintiff cannot claim any right and no civil suit would lie. Item No.2 is a poramboke property which is in possession of D1 to D3 for a long time. Plaintiff has no locus standi to Challenge the possession of the defendants over the item No.2 of the suit property as it is a government poramboke land. If the plaintiff deny the oral partition the only remedy available to him is to file partition suit. As for suit in OS.192/1987 is concerned the defendants are not party to the suit and hence its not binding on them. The suit was between the heirs of Munusamy and there was no adjudication of title. This suit is barred by limitation. Cause of action for both the items are totally unconnected and hence this suit is bad for misjoinder of cause of action.

(vi) **ExB1** is the legal notice dated 28.08.2017 by plaintiffs. **ExB2** is the Reply notice dated 04.09.2017. **ExB3** is the Adangal of fasili 1413 date 09.02.2004 in the name of R.Velmurugan for property in S.No.11/8. However close reading of the said survey number shows it to be 11/7 over written as 11/8. **ExB4** is the

Adangal of fasili 1413 in the name of R.Velmurugan for property in S.No.11/8. However close reading of the said survey number shows it to be 11/7 over written as 11/8.

(vii) **ExB5** is the EC in application No.450/18 which shows that the suit property in S.No.316/18 has been mortgaged for loan in Doc.No.1753/1977 in Cuddalore co-operative society by Ranganatha kounder on 30.12.1977. **ExB6** is the Patta in Patta No.335 in favour of Munusamy for property in S.No.11/8.

11. Issue No. 4 :

➤ *Whether the plaintiff is entitled for the relief of Mandatory injunction as prayed for?*

(i) The plaintiff has filed the suit seeking the relief of declaration, recovery of possession and mandatory injunction. Suit properties are comprised of two items. The 1st item is property in S.No.11/8. The 2nd item is property in S.No. 11/3. As for the 2nd item is concerned it is admitted by either side that it is a government poramboke property. This is proved also by Ex. A12 which is the A register extract. It has remarks stating that the suit property as pathway. Apart from the above, Ex. A4 which is the proceedings by BDO in ந.க.அ.1 / 5606/2016 dated 22.02.2017 shows that 0.46.0 ares of land in S.No.11/8 has a pathway poramboke which was encroached by Velumani and Velmurugan who were the sons of Ranganathan. It further shows that they have encroached the said property by planting Banana, Groundnut and Sugarcane. Further it is also stated that they have

built 2 sperate hut and have encroached the property. The relevant excerpt from Ex.A4 is as follows:

"கோதண்டராமபுரம் மதுரா சின்னகாட்டுசாகை கிராமத்தை சேர்ந்த திரு.வேலுமணி த/பெ.ரெங்கநாதன் மற்றும் திரு.வேல்முருகன் த/பெ.ரெங்கநாதன் ஆகிய இருவரும் வாழை, மணிலா மற்றும் கரும்பு பயிர் செய்து ஆக்கிரமிப்பு செய்துள்ளனர். மேலும் திரு.ஆதிமூலம் த/பெ.ரெங்கநாதன் மற்றம் திரு.சிவக்கொழுந்து த/பெ.ரெங்கநாதன் என்பவர்கள் மாமரங்கள்-9, பலா மரங்கள்-2, புளிய மரங்கள்-2, பனை மரங்கள்-4, மற்றும் பூச்செடிகள் மூலம் ஆக்கிரமிப்பு செய்துள்ளனர். மேற்படி, புல எண்.11/8, 0.46.0 ஏர்ஸ் பாதை பொது மக்கள் பயன்படுத்த இயலாத வகையில் கடலூர்-விருத்தாசலம் தேசிய நெடுஞ்சாலையில் அமைந்துள்ளது."

(ii) Further DW1 in his cross examination admits that he is in possession and enjoyment of item no.2 of suit property, due to which item no. 1 of suit properties and other properties don't get irrigation. The relevant excerpt from his evidence is as follows:

"வழக்கு 2-வது அயிட்ட சொத்தினை நான் கையகப்படுத்தி எனது அனுபவத்தில் தான் வைத்துள்ளேன் என்றால் சரிதான். 2-வது அயிட்டமானது எனது அனுபவத்தில் உள்ளதால் வாதியின் 1-வது அயிட்ட நிலத்திற்கு மற்ற நிலங்களுக்கும் நீர்பாசனம் இல்லை என்றால் சரிதான்".

(iii) In view of all the above discussions, this court is of the view that the plaintiff has proved the encroachment in the pathway poramboke by the

defendants. Defendants, having admitted to be in possession of item No.2 of suit property for more than 40 years in the written statement, have not filed any counter claim for their right in item No.2 of suit property. However, the defence of the defendants with regard to this property is that the plaintiff has no locus standi to challenge the encroachment as item no.2 of the suit property is a poromboke property. This court finds no merit in the said contention, for the reason that item no.2 of the suit property is a pathway which is meant for public purpose. It is a settled principle of law that when there is a special or personal injury by encroachment, one can always seek to remove it. In the present case, the said land belongs to Government and they were also made party to the suit.

(iv) Plaintiff in his cross examination has stated that he has added 2nd item as he was not able to use the pathway and irrigation facilities. The relevant excerpt is as follows:

“2-வது இன சொத்தை எதற்கு இந்த வழக்கில் சேர்த்துள்ளீர்கள் என்றால் என்னிடத்திற்கு வருவதற்கான வழிபாதை மற்றும் நீர்வழி பாதையை தடுத்ததால் இந்த வழக்கில் சேர்த்துள்ளேன்”.

(v) From the admissions of DW1 and evidence of PW1, it could be seen that the plaintiff is not able to irrigate his crops. It amounts to a personal/ special injury. Even otherwise, the Hon'ble Madras High Court relying on the Judgment of *Manzur Hasan Vs. Mahammad Zaman* reported in (1921) ILR 43ALL692 in the case of *Kodavalur Subbamma vs Lota Narayanamurthi And Ors.* reported in AIR

1949 Madras 634 has held that a suit for removal of obstruction to a pathway was held to be maintainable without proof of special damage whether the pathway was highway or a village pathway. Where the plaintiff's right had been affected by the encroachment as a member of the public, he can maintain an action for the removal of such encroachment even without proof of any special damage.

(vi) Apart from the above, defendants have pleaded to be in possession of item no.2 of suit property for more than 40 years. However, they have not filed any document to prove the same. When item no.2 of suit property is government poramboke property meant for public purpose, one cannot encroach it and use it detrimentally against the public interest. In view of all the above discussions, this court is of the view that the plaintiff has locus standi to challenge it. **Issue No. 4 is answered accordingly.**

12. Additional Issue No.1:

➤ ***Whether the suit is bad for non-joinder of necessary parties?***

(i) With regard to Item No.1 of suit property, the plaintiff claims the relief of declaration and recovery of possession based on Ex.A10 Patta in favour of Munusamy, Ex.A11 the preliminary decree in O.S.No.192/1987, Ex.A13 the kist receipt dated 06.02.1988 in favour of Jayarama Kounder for property in patta No.335 and Ex.A14 the Adangal for fasli year 1421 to 1424 (2011 to 2014) in favour of A.Munusamy.

(ii) Firstly, the genealogy as stated by the plaintiff in Ex.A2 is denied by the defendants. Even the plaintiff in his proof affidavit and cross examination admitted the genealogy as stated by the defendants. The relevant excerpt from the oral evidence of PW1 is as follows:

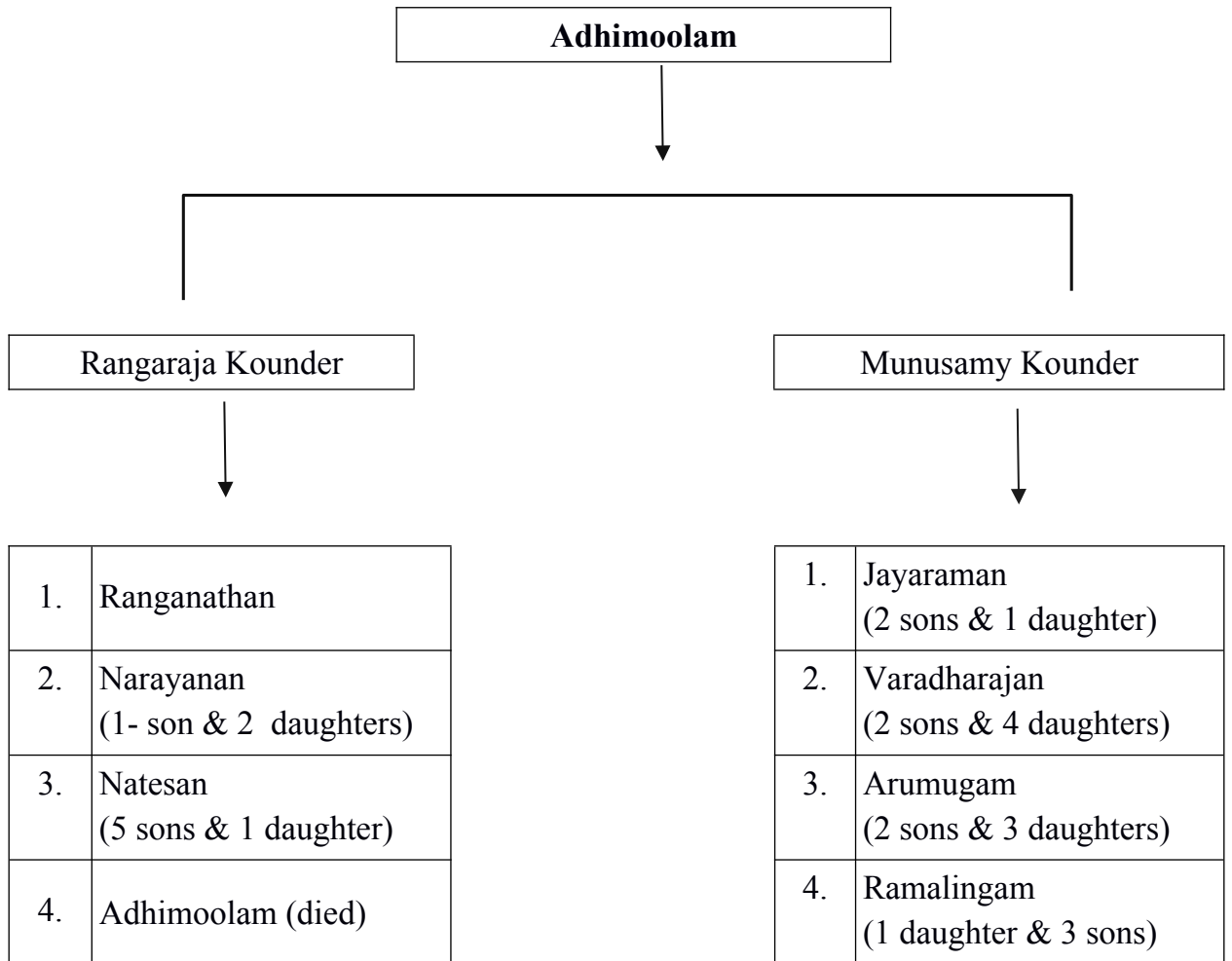
"பிரதிவாதிகள் எதிர்ஊரையில் நான் கொடுத்து இருக்கும் வம்சாவழிப்பட்டியல் சரியல்ல. ஆகிமூலம், சிவக்கொழுந்து இருவரும் சகோதரர்கள் என்பதும் ரங்கநாதன் மகன்கள் என்பதும் உண்மை. ஆனால் நான் வழக்கில் குறிப்பிடும் ஆகிமூலம், ரங்கநாதனின் தாத்தா ஆவார். எதிர் ஊரையில் 1 முதல் 3 பிரதிவாதிகள் கூறும் மற்ற ஊறு முறைகள் சரியே".

(iii) Even in the cross examination he states the genealogy in figure - 1 as a right one. Figure-1 drawn as per the below evidence for easy reference. The relevant excerpt from the cross examination of PW1 is as follows:

"ரங்கநாதன் என்பவருக்கு ஆதிமூலம் மற்றும் 1 முதல் 3 பிரதிவாதிகள் மகன்கள் என்றால் சரிதான். ஆதிமூலத்திற்கு ராமானுஜம் கவுண்டர் மற்றும் முனிசாமி கவுண்டர் ஆகிய 2 மகன்கள் என்றால் சரிதான். ராமானுஜ கவுண்டர் என்பவருக்கு ரங்கநாதன் நாராயணன் மற்றும் நடேசன் ஆகிய 3 மகன்கள் என்றால் சரிதான். ரங்கநாதன் என்பவருக்கு 4 பிள்ளைகள். ரங்கநாதன் பிள்ளைகள் ஆதிமூலம். சிவக்கொழுந்து, வேல்முருகன் மற்றும் வேலுமணி (1 முதல் 3 பிரதிவாதிகள்). நாராயணனுக்கு மகள் 2 மகன்கள் என்றால் சரியல்ல. அவருக்கு 1 மகன் 2 மகள்கள். நடேசனுக்கு 6 மகன்கள் என்றால் சரியல்ல. 5 மகன்கள் 1 மகள். முனிசாமி கவுண்டருக்கு ஜெயராமன் வரதராஜன் ஆறுமுகம்

ராமலிங்கம் ஆகிய 4 மகன்கள் என்றால் சரிதான். ஜெயராமனுக்கு 1 மகள் 2 மகன்கள் என்றால் சரிதான். ஜெயராமனின் 1 மகன்தான் ஜெயசந்திரன் என்றால் சரிதான். அந்த ஜெயசந்திரன் நான் தான். என் உடன் பிறந்தோர் உள்ளார்கள். அவர்களை வழக்கில் தரப்பினராக சேர்க்கவில்லை என்றால் சரிதான், வரதராஜனுக்கு 2 மகன்கள் 4 மகன்கள் என்றால் சரிதான். ஆறுமுகத்திற்கு 2 மகன்கள் 3 மகன்கள் என்றால் சரிதான். ராமலிங்கத்திற்கு 2 மனைவிகள் என்றால் சரிதான். முதல் மனைவிக்கு 1 மகள் என்றால் சரிதான். இரண்டாவது மனைவிக்கு 3 மகன்கள் என்றால் சரிதான்”.

FIGURE-1



(iv) From the above genealogy it is apparent that Munusamy Kounder has 4 sons namely Jayaraman, Varadharajan, Arumugam and Ramalingam. It is no doubt that the Item No. 1 of suit property stands in the name of Munusamy Kounder. However, he has 4 sons and many other grandchildren. Even the plaintiff is one of the grandchildren of him. The plaintiff Jayachandran is the son of Jayaraman. Jayaraman has yet another son namely Rajendran. This shows that apart from the plaintiff herein, all the above-mentioned persons are also the legal heirs of Munusamy and will be entitled for the right over the Item No.1 of suit property.

(v) Even otherwise in OS.No.192/1987 only a preliminary decree has been passed in favour of plaintiff's father Jayaraman and 1/5 th share is allotted to him in A to C schedule property therein. The Item No.3 of "A" schedule property therein is the Item No.1 of the present suit. No final decree was filed in that suit. PW1 in his evidence admits the same as follows:

“O.S.No.192/1987 பாக வழக்கில் இந்த வழக்கில் 1-வது இன சொத்தை சேர்த்துள்ளார் என்றால் சரிதான். இந்த தீர்ப்பின்படி 1-வது இன சொத்து எனது அப்பாவிற்கு ஒதுக்கப்பட்டதா என்றால் ஆம் ஒதுக்கப்பட்டது. தீர்ப்பின் படி நிறைவேற்றுமனு தாக்கல் செய்து சொத்தை எனது அப்பா ஒப்புதல் எடுத்துக்கொள்ளவில்லை என்றால் சரிதான்”.

(vi) Hence even on that premise, it could be seen that both Jayachandran and Rajendran is entitled to their father's 1/5 th share.

(vii) It is pertinent to note that the defence of the defendants is that there was an oral partition between the legal heirs of Ramanujam and Munusamy, in which Item No.1 of the suit property was allotted to the heirs of Ramanujam. However, the plaintiffs deny the same stating that Item.No.1 of suit property was allotted to Munusamy. Initially in the pleadings, the plaintiff's pleaded that there was no oral partition. However, PW1 in his proof affidavit and cross examination has admitted oral partition between Ramanujam and Munusamy. The relevant excerpt from proof affidavit is as follows:

"ராமானுஜம் வாரிசுகளுக்கும் முனுசாமிக்கு வாய்மொழி பாகம் என்பது தவறு. ராமானுஜம் மற்றும் முனுசாமிக்கு மட்டுமே வாய்மொழி பாகம்."

(viii) The defendants who initially claimed oral partition between the legal heirs of Ramanujam and Munusamy also in their cross examination admitted that the oral partition was between Ramanujam and Munusamy. The relevant excerpt from the cross examination of DW1 is as follows:

"1-ஆம் ஆயிட்ட சொத்தைப்பொருத்த வரை வாய் மொழி பாகம் எப்போது ஏற்படுத்தப்பட்டது என்றால் என்னுடைய அப்பா காலத்திற்கு முன்பே ஏற்படுத்தப்பட்டது. தேதி ரூபகம் இல்லை. ராமானுஜக்கவுண்டர் உயிருடன் இருக்கும்போது ஏற்பட்டது என்றால் சரிதான். அந்த வாய் மொழி பாகம் யார்

யார்க்குள் நடைபெற்றது என்றால் முனுசாமி மற்றும் அவர்களது பிள்ளைகள் 4 பேர் மற்றும் எனது தகப்பனார் ரங்கநாதன், நாராயணன், நடேசன் ஆகியோர்குள் நடைபெற்றது. எனது அப்பா எப்போது இறந்தார் என்றால் 87 வயதில் இறந்தார்... வாய் மொழி பாகத்திற்கு ஆவணங்கள் ஏதேனும் ஏற்படுத்தப்பட்டதா என்றால் இல்லை....எனக்கு நினைவு தெரிந்து பிறகாவாது வாய் மொழி பாகத்தை அனுசரித்து ஆவணங்கள் ஏதேனும் ஏற்படுத்தினேனா என்றால் இல்லை”.

(ix) The above evidence of DW1 and PW1 confirms the factum of oral partition. However, both the parties refrained from stating as to what where all the properties that were given in oral partition to either of them. Even if it's taken that Item No.1 of suit property is given in favour of Munusamy, this court is of the view that all the necessary parties should have been impleaded for adjudication of title with regard to Item No.1 of suit property.

(x) When the plaintiff was pointed out that he should have impleaded the other legal heirs, he takes inconsistent plea where at one place he states that he is contesting the case for and on behalf of all the other legal heirs. At the other place he states that Item No.1 of suit property was exclusively allotted for the plaintiff's father. Even if its admitted to be true, the plaintiff has not impleaded his siblings. The relevant excerpt from the proof affidavit of PW1 is as follows:

"மாறாக நான் மொத்த குடும்பத்தினர் நலன் கருதி இந்த வழக்கை தாக்கல் செய்து உள்ளேன்”.

(xi) The relevant excerpt from the cross examination of PW1 is as follows:

முனுசாமிக்கு வாய்மொழியாக ஏற்பட்ட பாகத்தில் முனுசாமியின் வாரிசுகள் அனைவருக்கும் பங்கு உள்ளது என்றால் சரியல்ல. எனது தந்தைக்கு மட்டும் பாகம் உண்டு. மற்றவர்களுக்கு ஏன் பாகம் இல்லை என்றால் மற்றவர்களுக்கு வேறு சொத்துக்கள் ஒதுக்கப்பட்டுள்ளது இந்த சொத்து குறித்து குறிப்பான காரணம் உண்டா என்றால் எனது தந்தைக்கு தான் தெரியும்.

(xii) Even in Ex. X1, the VAO states that the Item No. 1 of suit property is encroached by the defendants. However, states that the patta for the same stands in the name of Munusamy and Munusamy has certain other legal heirs. The relevant excerpt from his report is as follows:

"மனுதாரர் ஆக்கிரமிப்பு செய்யப்பட்டுள்ளதாக கோரும் புலம் கோதண்டராமபுரம் கிராம கணக்கில் ரீ.ச.11/8 0.08.0 ஏர்ஸ் பட்டா 335 முனுசாமி த/பெ ஆதிமூலம் கவுண்டர் என உள்ளது. மேற்கண்ட புலத்தை கோதண்டராமபுரம் மதுரா சின்ன காட்டுதூகை முகவரியில் வசிக்கும் திரு.வேலுமணி த/பெ சங்கநாதன் என்பவர் நிலத்தின் அத்துகளை கலைத்துவிட்டு ஏர் 2முது தற்போது தக்கை சாகுபடி செய்துள்ளார். மேலும் மனுதாரர் திரு.ஜெயசந்திரன் என்பவர் முனுசாமி த/பெ.ஆதிமூல கவுண்டர் என்பவரின் மகன் வயிற்று பேரன் ஆகும் என்பதையும் பணிவுடன் தெரிவித்துக்கொள்கிறேன். காலஞ்சென்ற திரு.முனுசாமி

த/பெ.ஆதிமூல கவுண்டர் என்பவருக்கு திரு.ஜெயராமன்-1, திரு.வரதராஜன்-2, திரு.ஆறுமுகம்-3, திரு.ராமலிங்கம்-4 ஆகிய ஆண்வாரிசுகளும் திருமதி.விசாலாட்சி-1, திருமதி.பஞ்சவர்ணம்-2, திருமதி.தனலட்சுமி-3 ஆகிய பெண் வாரிசுகளும் உள்ளனர் என்பதும் விசாரணையில் தெரியவருகிறது என்பதையும் பணிவுடன் தெரிவித்துக்கொள்கிறேன்”.

(xiii) In view of all the above discussions, this court finds that the plaintiff has failed to trace his exclusive title over Item No.1 of the suit property. It is apparent that the right remains common to the legal heirs of Munusamy. Without them being impleaded, no effective decree could be passed with regard to right over the item no. 1 of suit property.

(xiv) Despite the objection in written statement, the plaintiff has not chosen to implead the legal heirs. It is a settled principle of law that, a “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. It has also been reiterated by the Hon’ble Supreme Court in the case of *Moresnar Yadaorao Mahajan vs Vyankatesh Sitaram Bhedi(D) Tr.Lrs.* reported in *2022 Livelaw (SC) 802*. Hence, this court is of the view that the suit is hit by the vice of nonjoinder of necessary parties. **Additional Issue No.1 is answered accordingly and Issue Nos.1 & 2 is answered as against the plaintiff.**

13. Issue No. 5 & 6:

➤ *Whether the suit is not valued for purposes of court fees and jurisdiction?*

➤ *Whether the suit is barred by limitation?*

(i) As for Issue as to court fee and Jurisdiction, the defendants in his written statement have stated that the plaintiff has undervalued the suit property and has paid court fee for that. While cross examining PW1, has stated that he does not know the value of the suit property. The relevant excerpt is as follows:

"வழக்கு தாக்கல் செய்தபோது வழக்கின் 1-வது இன சொத்தின் மதிப்பு எவ்வளவு என்றால் தெரியாது. வழக்கு தாக்கல் செய்த காலத்தில் 1-வது இன சொத்து மதிப்பு பல லட்சம் போகும் ஆனால் நான் குறைந்த மதிப்பீடு காண்பித்து இந்த நீதிமன்றத்தில் வழக்கு தாக்கல் செய்துள்ளேன் என்றால் சரியல்ல".

(ii) Apart from above, no documents were filed by the defendants to rebut that the market value of the suit property provided in plaint is wrong. That being the case, for purposes of calculation of court-fee, the general presumption is that the Court must take the allegations in the plaint to be *prima facie* correct. Hence this court is of the view that, the court fee is proper. **Issue No.5 is answered accordingly.**

(iii) As for the issue as to limitation, the defendants plead that the

plaintiffs have approached the court after extinguishment of their right as the defendants are in possession and enjoyment of suit property for more than 40 years. However, this court does not find merit in the said contention for the reason that, the defendants have failed to prove their possession for more than 40 years through their witnesses DW3 to DW5 as they state that while using the highway they saw the cultivation in the suit property by defendants, which in the opinion of the court is insufficient to prove possession. All the revenue documents with regard to item no.1 of suit property stands in the name of Munusamy. Even the Adangal filed by the defendants has some overwriting and hence does not seem to be genuine. In view of same, this court is of the view that the suit is well within the period of limitation. **Issue No. 6 is answered accordingly.**

14. Issue No.7:

➤ *To what other relief the plaintiff is entitled to?*

As for Issue No. 7, the parties are not entitled to any other reliefs.

In fine, suit is partly decreed with costs. Mandatory injunction is granted directing the defendants 4 to 7 to measure the Item No.2 of suit property and to remove obstruction in Item No.2 (Pathway Poramboke) of suit property.

Dictated by me and directly typed in the computer by Steno typist and

printed out by her and corrected and pronounced by me in open court, on this day,
the 10th day of June 2026.

Additional District Munsif,
Cuddalore.

List of Witnesses on Plaintiffs' side:

PW1	Mr.Jayachandran, S/o.Jayaraman.
PW2	Mr.Ravichandran, S/o.Kuppusamy.

List of Documents on Plaintiffs' side:

ExA1	02.01.1928	Mortgage Deed	Copy
ExA2	-	Family members genology.	Copy
ExA3	-	Petitions given by the plaintiff to the District Collector	Copy
ExA4	22.02.2017	Proceedings of RDO	Copy
ExA5	02.04.2017	Legal notice	Copy
ExA6	-	Acknowledgment cards.	Original
ExA7	08.02.2017	Complaint by Jayachandran by SI	
ExA8	02.06.2017	CSR.205/2017 for complaint	Original

ExA9	-	Reply notice of the defendants.	Copy
ExA10	-	‘A’ register for property in old S.No.316/18 New S.No.11/8	Copy
ExA11	28.10.1991	Preliminary Decree in O.S..192/1987	Original
ExA12	-	‘A’ register for property in S.No.11/3	Copy
ExA13	06.02.1988	Kist receipt of property in Patta No.335	Copy
ExA14	-	Adangal for Fassili 1421, 1422, 1423, 1424 (2011-2014) for property in S.No.11/8	Copy
ExA15	30.09.2025	CSR in 639/2025 for complaint	Copy
ExA16	01.10.2025	CSR in 640/2025 for complaint	Copy
ExA17	04.10.2025	FIR in Cr.No.269/2025	Copy

List of Witnesses on Defendant’s side:

DW1	Mr.Velmurugan, S/o.Ranganathan.
DW2	Mr.Vasu, S/o.Thangarasu.
DW3	Mr.Ramamoorthy, S/o.Natesan.
DW4	Mr.Manibalan, S/o.Krishnan.
DW5	Mr.Magesh, S/o.Kaliyaperumal.

List of Documents on Defendants side:

ExB1	28.08.2017	Legal notice	Original
ExB2	04.09.2017	Reply notice	Original
ExB3	09.02.2004	Adangal of fasili 1413	Original
ExB4	-	Adangal of fasili 1413	Original
ExB5	-	EC in application No.450/18	Original
ExB6	-	Patta in Patta No.335 in favour of Munusamy for property in S.No.11/8.	Copy

List of Third Party Documents:

Ex.X1	07.11.2016	Report of VAO	Copy
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Additional District Munsif,
Cuddalore.

ADM Court, Cuddalore.
Fair Judgment
