

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHIDAMBARAM**

**Present:** Selvi.S.Padmavathi, M.L.,  
Principal District Munsif,  
Chidambaram.

**Friday, the 27<sup>th</sup> day of March 2026**

**O.S.No.197/2014**  
**CNR No.TNCD10-000-003-2014**

Manikkavasagan

... Plaintiff

/Vs/

1.Nagarasu (Died)  
2. Velmurugan  
3. Velmani  
4. Krishnamoorthy  
5. Lalitha  
(As per order Amended IA.No.257/2024 dt on 11.06.2024 )

..... Defendants

Suit came before me for final hearing on 11.03.2026 in the presence of Thiru.P.Gopalakrishnan, the Learned Counsel for the Plaintiffs and D1- Died, Thiru.N.Rajendran, Advocate for D3 and D2,D4, D5 were set as Exparte, upon hearing the arguments of both side and perusal of records and having stood over for consideration till this day, this court delivers the following

**JUDGMENT**

Suit for Declaration and Recovery of possession in respect of suit schedule of property.

**2) The averment in the plaint in brief are as follows:-**

It is stated that, the entire suit property is in Survey No.94/8B1, Patta No.681. Plaintiff's paternal grand father Rathinasamy and Thangavel are siblings who, by

means of partition deed dt.25.05.1945, partitioned suit property and other properties. On the basis of the above said partition deed, the suit property was allotted to plaintiff's small grand father and as per it Thangavel and his wife Rasayal took possession of it. Thangavel and Rasayal were issueless and so, both were living along plaintiff. After Rathinasamy, Plaintiff's father Ramachandran and later Plaintiff took possession and enjoyed the allotted property. Plaintiff's small grand father died intestate on 25.01.1991 in respect of suit property leaving behind Rasayal and Plaintiff. Then, the Plaintiff and his grandmother Rasayal lived together and Rasayal died in the year 1992. After the lifetime of Thangavel and Rasayal, suit property entirely belongs to Plaintiff. There is no relation between defendant and suit property which suit property was encroached by defendants who were in illegal possession of it. Plaintiff is paying Tax, kist in the name of plaintiff himself in respect of suit property as he is legally entitled to possession of it. On 18.09.2014, defendants attempted to cut thorn trees present in the suit property illegally and when plaintiff stopped it, defendant criminally intimidated the plaintiff. On 19.09.2014, defendants lodged false complaint against plaintiff, and stopped plaintiff in entering upon suit property. Police conducted enquiry and directed the parties to file civil suit as dispute is of civil nature and at that time a compromise letter was written by parties which is given to police. Plaintiff has title, right and possession over suit property legally. The possession of suit property of defendant is illegal. Hence the suit.

**3) The averments in the Written Statement filed by D1 and adopted by D2, D3 in brief are :-**

The suit is false, frivolous, vexatious and liable to be dismissed. The defendants denied the averments in Plaint except expressly admitting facts.

It is denied that, the alleged cause of action is false and invented and Plaintiff is put to strict proof of the same. It is stated that, the description of property is vague, wrong and incorrect and also court fee paid is wrong on which grounds, the suit is liable to be dismissed with cost and the suit is not maintainable.

It is denied that, after the death of Rathinasamy, Plaintiff's father Ramachandran was in possession of the property and that after the death of Ramachandran, Plaintiff is in the possession of the property. Neither plaintiff nor his father was ever in possession and enjoyment of the suit property at any point of time. It is denied that Thangavel and Rasayal lived with the plaintiff and so, the Plaintiff is put to strict proof of the same.

It is denied that, after that Rajagopal died intestate. After the death of Thangavel, Rasayal was maintained and looked after by her brother Kaliyaperumal and his son Krishnamoorthi of Thirumoolasthanam Village, Kattumannarkoil Taluk. Out of love and affection towards her brother's son viz Krishnamoorthi S/o kaliyaperuaml, Rajayal executed a Will dt14.04.1991 bequeathing the suit property to Krishnamoorthi which Will was executed by Rasayal out of her own will and volition while she was in a sound disposing state of mind which was her last Will and testament. Rasayal died and the Will dt.14.04.1991 came to effect and as per the terms of the Will, Krishnamoorthi S/o.Kaliyaperumal became the owner of the suit

property. Krishnamoorthi leased out the suit property to this defendant under a lease deed dt.25.06.1992 and the agreed rent is 1 kalam of paddy per fasli. D1 took possession of the suit property from krishnamoorthy on 25.06.1992 and has been cultivating the land and D1 and his family members are contributing their physical, muscular labour in the cultivation of the suit property and are paying kist for the suit property and so defendant cannot be evicted except under due process of law. It is denied that Rasayal died intestate. It is denied that, the defendants have no right, title or interest in the suit property and that they trespassed into the suit property and are in unlawful possession of the suit property. It is denied that, on 18.09.2014, the defendants attempted to remove the Karuvai trees situated in the suit property which plaintiff objected and aggrieved over the same, the defendants threatened the plaintiff. It is further stated that,D1 is in lawful possession and he cannot be evicted except under due process of law. Plaintiff is not a heir of deceased Rajayal and so he has no locustandi to file this suit. As per the Will dt.14.04.1991, Krishnamoorthy S/o.Kaliyaperumal became the owner of suit property. The suit is bad for non-joinder of necessary parties and cause of action. Hence,prays to dismiss the suit with Cost.

**3.1) The averments in the Written Statement filed by 4<sup>th</sup> Defendant in brief are as follows:-**

The suit is false, frivolous, vexatious and liable to be dismissed. The defendants denied the averments in Plaint except expressly admitting facts.

It is denied that, the alleged cause of action is false and invented and Plaintiff is put to strict proof of the same. It is stated that,the description of property is vague,

wrong and incorrect and also court fee paid is wrong on which grounds, the suit is liable to be dismissed with cost and the suit is not maintainable.

It is denied that, after that Rajagopal died intestate. After the death of Thangavel, Rajayal was maintained and looked after by her brother Kaliyaperumal and his son Krishnamoorthi of Thirumoolasthanam Village, Kattumannarkoil Taluk. Out of love and affection towards her brother's son viz Krishnamoorthi S/o kaliyaperuaml, Rajayal executed a Will dt14.04.1991 bequeathing the suit property to Krishnamoorthi which Will was executed by Rajayal out of her own will and volition while she was in a sound disposing state of mind which was her last Will and testament. Rajayal died and the Will dt.14.04.1991 came to effect and as per the terms of the Will, Krishnamoorthi S/o.Kaliyaperumal became the owner of the suit property. Krishnamoorthi leased out the suit property to this defendant under a lease deed dt.25.06.1992 and the agreed rent is 1 kalam of paddy per fasli. D1 took possession of the suit property from Krishnamoorthy on 25.06.1992 and has been cultivating the land and D1 and his family members are contributing their physical, muscular labour in the cultivation of the suit property and are paying kist for the suit property and so defendant cannot be evicted except under due process of law. It is denied that Rajayal died intestate. It is denied that, the defendants have no right, title or interest in the suit property and that they trespassed into the suit property and are in unlawful possession of the suit property. It is further stated that,D1 is in lawful possession and he cannot be evicted except under due process of law. Plaintiff is not a heir of deceased Rajayal and so he has no locustandi to file this suit. As per the Will

dt.14.04.1991, Krishnomoorthy S/o.Kaliyaperumal became the owner of suit property. Plaintiff filed vexatious suit in order to grab the suit property. Hence prays to dismiss the suit with Cost.

**4) On perusal of the pleadings, this court framed the following issues :-**

|   |                                                                                                                                 |
|---|---------------------------------------------------------------------------------------------------------------------------------|
| 1 | Whether the plaintiff is entitled for declaration as prayed for ?                                                               |
| 2 | Whether it is true that Rasayal executed the Will dated 14.04.1991 is valid in favour of Krishnamoorthy as stated by defendant? |
| 3 | Whether the suit is bad for non joinder of necessary party?                                                                     |
| 4 | Whether the plaintiff is entitled for possession as prayed for ?                                                                |
| 5 | Whether the plaintiff is entitled for Judgment and decree prayed for ?                                                          |
| 6 | To what other relief the plaintiff is entitled to ?                                                                             |

**4) On perusal of the pleadings, this court framed the following Additional issues :-**

|   |                                                                 |
|---|-----------------------------------------------------------------|
| 1 | இந்த வழக்கிற்கான வழக்குமூலம் தவறானதா?                           |
| 2 | வணையப்பட்ட விதத்தில் இந்த வழக்கு நிலைக்கதக்கதில்லையா?           |
| 3 | தாவா சொத்தில் வாதிக்கு எந்த உரிமை கிடையாது என்று கூற்று சரியா ? |

5) On the side of the Plaintiffs, PW1 was examined and through him Ex.A1 to Ex.A11 were marked. On the side of defendants, DW1 was examined and through him Ex.B1 and Ex.B2 were marked.DW2 was examined.

## 6) Discussion and Reasoning:-

### 6.1) Issues 1,2,4 and Addl. Issue1,2,3:-

6.1.1)Plaintiff stated in plaint that his small grandfather Thangavel died intestate leaving his wife Rasayal and the grandson viz Plaintiff in respect of suit property.

On appreciation of documentary evidence of plaintiff, ExA1 viz registered Will,it is executed by Plaintiff's small father Thangavel in favor of Plaintiff in respect of some other properties. On careful perusal of ExA1 Will,though it is stated in Will that, plaintiff is entitled to properties of Thangavel as Thangavel and Rasayal are Issueless and as they are taken care of by their grandson plaintiff, **suit property is not mentioned in the Will** as rightly argued by defendant's counsel inspite of there is schedule and description of other properties in Will ExA1. ExA1 Will is not proved to court by plaintiff and importantly suit property is not mentioned in Will and so ExA1 didn't support plaintiff's version of case.

As suit property is not mentioned in Will ,Plaintiff couldn't claim right or title over suit property in favor of him on the basis of Will. Will was not proved to Court by examining any one of attesting witnesses. On perusal of case records,it seems One Attestor was examined in chief, but wasn't cross-examined as defendants are set exparte. After set aside of Exparte judgment , that attestor was not examined during contest. **No Corroborative oral evidence exists in favor of PW1's oral evidence.**

On appreciation of documentary evidence **ExA8**, the unregistered Original Partition deed executed between Rathinasamy and Thangavel, it shows, in suit property survey no. 94/8B 36cents, 18 cents each were allotted to Thangavel and Rathinasamy from which, it is known that plaintiff's small father was allotted 18cents suit property, but Thangavel didn't mention in Will from which, it is observed that, Thangavel didn't intend to give suit property to plaintiff though given other properties, which may impliedly means Thangavel left it to his wife Rasayal.

PW1 gave oral evidence that

“ தங்கவேல் இறந்தபிறகு அந்த நிலம் என்னவாயிற்று என்றால் 1 ஏக்கர் நிலம் உயிலின் மூலம் எனக்கு கொடுத்துவிட்டார். மற்றொரு ஏக்கர் நிலம் அவர் இறந்தபிறகு நான் விற்றுவிட்டேன். எனக்கு உயில் மூலம் கொடுக்கப்பட்ட 1 ஏக்கர் நிலத்தை சுமார் 10 வருடங்களுக்கு முன்பே விற்றுவிட்டேன். எவ்வளவு நிலம் தற்போது என்னிடம் உள்ளது என்றால் எனது தாத்தா ரத்தினசாமியின் நிலம் 11 செண்ட் என்னிடம் உள்ளது. 11 செண்ட் அல்லாமல் வழக்கு சொத்து 18 செண்ட் என்னிடம் உள்ளது.

6. வழக்கு சொத்து 18 செண்ட் எந்த வருடம் முதல் என்னிடம் உள்ளது என்றால் சுமார் 1998 முதல் என்னிடம் உள்ளது. என் தந்தை ராமசந்திரம் நாகராசுவிற்கு வாய்மொழி குத்தகையாக மேற்சொன்ன 18 செண்ட் இடத்தை கொடுத்திருந்தார். என் தந்தை இருந்தவரை நாகராசுவிடம் இருந்து குத்தகை பணம் வாங்கியிருந்தார். என் தகப்பனார் இறந்த பிறகு நாகராசு குத்தகை பணம் எனக்கு கொடுக்கவில்லை மாறாக நிலம் அவருடையது என்று கூறி பிரச்சனை செய்தார். என் தகப்பனார் 2002 இல் இறந்தார்.

நான் பட்டா மாற்றுவதற்கு தங்கவேல் உயில் ஆவணத்தை VAO விடம் கொடுத்தேன்..”

From the above oral evidence of PW1, it is known that PW1/plaintiff sold the property he obtained by way of Will. Suit property is not mentioned in the Will which implies Plaintiff's grandfather didn't give the suit property to plaintiff by Will.

Further, PW1 deposed that he gave Will to VAO for change of Patta from which, this court infers that Patta is wrongly changed in the name of plaintiff by VAO in respect of suit property.

Further, PW1 deposed that his father gave lease to Defendant and admitted that Defendant is lessee of suit property, though lessor not admitted. It is the case of

defendant that Rasayal executed Will in favor of Krishnamoorthy who leased out suit property to D1.

On appreciation of documentary evidence of plaintiff viz **ExA2**, the encumbrance ,it shows no encumbrance regarding suit property neither shows Title over suit property by Plaintiff. On appreciation of ExA4, ExA7, the patta in the name of plaintiff and his grandfather Thangavel in respect of suit property subdivided survey no.94/8B1 and other properties, patta proves possession and it will not confer title. On appreciation of ExA11 viz Adangal in the name of Plaintiff in respect of suit property, it can prove only possession and not title. On appreciation of ExA5,ExA6,ExA10,the Original kist receipts in the name of plaintiff in respect of suit property in patta no 681 and other properties, kist can be paid by any person and it will not confer Title.

ExA3 is the kist receipt in the name of Rasayal in respect of other property. On appreciation of ExA9, it is the family card of rasayal.

On appreciation of all oral and documentary evidence of plaintiff side,this court found that, **ExA8** ,the partition deed shows Plaintiff's small grandfather Thangavel was allotted suit property 18cents in survey no94/8B. **ExA1**, the Will didn't have mention of suit property and so it is irrelevant in respect of suit property.ExA1 is not proved by one of attesting Witnesses and so it didn't support Plaintiff's case. **ExA4,7** viz patta and **ExA11** adangal for the year 2017 and ExA5,6,10 kist receipts didn't confer title as they are only possessory documents and so on the basis of abovesaid documentary evidence, the plaintiff is not entitled for

Title of suit property as plaintiff failed to establish his grandfather's intent to give him suit property and that the suit property devolves to him as registered Will ExA1 executed by his grandfather in favor of plaintiff have no mention of suit property in it and is not proved by one of attesting witness.

PW1 though gave oral evidence that, the suit property was leased out by his father Ramachandran to D1 and D1 gave in favor of his father 1 kalam for lease and stopped it after death of his father and started disputing suit property is of D1, he didn't prove it to Court either by documentary evidence or corroborating oral evidence sufficient on his side and that suit property only devolves to him after death of Rasayal as there is contra defendant version of case as to ExB1,2 and as D4 is not examined , this court couldn't come to conclusion whether Rasayal executed Will in favor of D4 or not and that he executed lease deed in favor of D1 or not and there is no evidence to show to the Court suit property devolves to plaintiff after death of Rasayal.

**6.1.2)** Defendant counsel quoted as per s.14 of Hindu Succession Act,1956 the female hindu have right over her absolute property and argued, in the case in hand , As Rasayal obtained suit property from her husband Thangavel on his death, she has got absolute right in favor of her in respect of suit property.

DW1 gave oral evidence that, Rasayal executed Will ExB1 in favor of D4 Krishnamoorthy who is her brother's own son who executed ExB2,the Lease deed in favor of D1 . Further DW1 gave oral evidence that, D4 Krishnamoorthy was 75 years old, operated and bed ridden and so couldn't depose before court but, there exists no

corroborative oral evidence sufficient for the Court to get convinced that D4 could not appear before the Court to depose, as he is bed ridden.

DW1 further gave oral evidence that, he was in possession of suit property by means of lease and lessor being D4 and no corroborative oral evidence exists as DW1/D3 himself deposed in cross that, he couldn't examine Witnesses of Ex.B2 as they were ill when Ex.B2 is challenged as forged and DW1 denied Plaintiff was adopted son of Thangavel and Rasayal .

On the other hand, it is contested by plaintiff side that EXB1,ExB2 are forged for the purpose of suit and that ExB2 is unregistered. Plaintiff counsel further argued that, the unregistered lease deed is not maintainable as per provision of S.4(b) of Tamil Nadu Cultivating Tenants protection rules ,1955 which provision requires that all tenancy agreements between landlords and cultivating tenants be executed in triplicate with one copy sent to Taluk office for registration along with fee to ensure a legal record of the lease and also cited case law In Re Chinnaponnnu and others Vs Mamundi and others, 2021 HC Madurai bench in support of his case. Mainly, it is also contested by plaintiff counsel that, that non-examination of D4 Krishnamoorthi who is the beneficiary of Ex.B1 Will and the executor of Ex.B2, when ExB1, Ex.B2 is challenged as forged, affects the defendant's case.

On appreciation of all oral and documentary evidence of defendant side, firstly ExB1,the Will ,though one of attesting witness DW2 was examined by defendant side to prove Will, this court is not convinced as D4 Krishnamoorthy didn't come to Court and gave oral evidence nor his representatives deposed on behalf of D4 and any other

witness deposed supportive to DW1/D3 oral evidence that, Will came into force on death of Rasayal and that D4 got right and title over suit property and later he executed the lease Deed ExB2 in favor of D1. This court also found that, the non-examination of D4 nor his representatives in respect of ExB1, ExB2 in respect of suit property affects defendants case and which implies Defendant not proved his version of case nor disproved plaintiffs case in eyes of law..

### **6.2) Issues 3:-**

It is contested by defendant side that, the suit is affected by non-joinder of necessary parties and cause of action in pleadings but no name expressly mentioned. Only in DW1 chief, it is expressly mention viz suit is affected by non-joinder of legal heirs of Rathinasamy and Ramachandran. This court found that, the suit is not affected by non-joinder of Rathinasamy's legal heirs as Thangavel was allotted suit 18cents suit property. As there exists no evidence as to plaintiff's father Ramachandran has any other legal heirs, this court comes to conclusion that, the suit is not affected by non-joinder of legal heirs of Ramachandran in the absence of sufficient evidence.

### **6.3) Issues 5,6:-**

**On appreciation of above all oral and documentary evidence** and its findings, and on considering into the facts and circumstances of the case and the answers found in Issue No. 1 to 4, addl. issue 1,2,3 and for the reasons stated supra, as plaintiff failed to establish his case and didn't convince the court as to he has title over suit property, this court comes to the conclusion that the Plaintiff is not entitled

for Declaration and Recovery of possession in respect of suit property against D1 and no other reliefs.

7) In the result, the suit is dismissed. No Cost. The Plaintiff is not entitled for Declaration and recovery of possession in respect of suit property.

Dictated to the typist, typed by her, corrected and pronounced by me in the open court, this Friday, the 27th day of March, 2026.

(Sd/-S.Padmavathi)  
Principal District Munsif,  
Chidambaram.

### **ANNEXURES**

#### **List of Plaintiff side witnesses:-**

PW1: Manikkavasagan ( plaintiff)

PW2: Elangovan

#### **List of Plaintiff side Exhibits:**

|       |            |                                                                                                                                |
|-------|------------|--------------------------------------------------------------------------------------------------------------------------------|
| Ex.A1 | 10.01.1991 | Will executed by Thangavel padayachi in favor of Plaintiff, in respect of other property-Original                              |
| Ex.A2 | 22.09.2014 | Original Encumbrance certificate from 01.01.1987 to 21.09.2014 in respect of property in survey No.93/3B3,94/8B1, (S.No.97/1A) |
| Ex.A3 | 18.02.1991 | Kist in the name of Rasayal in respect of other properties                                                                     |
| Ex.A4 | 30.12.2013 | Patta No.150 in the name of Thangavel in respect of suit property                                                              |
| Ex.A5 | 18.02.1991 | Kist in the name of Manikkavasagan (5 Nos) in respect of suit and other properties -Original                                   |
| Ex.A6 | 07.01.2015 | Kist in the name of Manikkavasagan in respect of suit property-Original                                                        |

|        |            |                                                                                                                                              |
|--------|------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.A7  | 30.12.2013 | Patta No.681 in the name of Manikkavasagan in respect of suit and other property- Original                                                   |
| Ex.A8  | 25.05.1945 | Certificate copy of Partition Deed executed between Rathinasamy and Thangavel                                                                |
| Ex.A9  | -          | Family Card of Rasayal – Xerox                                                                                                               |
| Ex.A10 | 11.02.2016 | Kist in the name of Manikkavasagan in respect of other property issued by VAO- Original                                                      |
| Ex.A11 | 07.08.2022 | Adangal for the fasali 1427 to 1433 in the name of Plaintiff Manikkavasagan in respect of suit property issued by Deputy Thasildar- Original |

**List of Defendant's Witnesses:**

DW1: Velmani

DW2 : Dharmalingam

**List of Defendant side Exhibits:**

|       |            |                                                                                                           |
|-------|------------|-----------------------------------------------------------------------------------------------------------|
| Ex.B1 | 14.04.1991 | Unregistered Will executed by Rasayal in favor of D4 Krishnamoorthy in respect of suit property -Original |
| Ex.B2 | 25.06.1992 | Unregistered Lease deed executed by Krishnamoorthi in favor of D1 in respect of suit property.            |

(Sd/-S.Padmavathi)  
Principal District Munsif,  
Chidambaram.

**Draft/Fair Judgment**  
O.S.197/2014  
Dated: 27.03.2026  
**C.I.A**