

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHIDAMBARAM.

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

Tuesday, the 18th day of November, 2025

EA.40/2025 in EA.164/2024 in EP. 40/2023 in OS. 186/2013

Santhabai

...Petitioner/Respondent/
Respondent/Defendant

/Vs/

R. Muthukumaran

... Respondent/Petitioner/
Petitioner/Plaintiff

This suit came before me for final hearing on 06.11.2025 in the presence of Thiru.R.Gururaj, the Learned counsel for the Petitioners and the Learned Advocate Tmt.N.Sridevi for Respondent and on perusal of the records and upon hearing both sides, this court delivers the following.

ORDER

This petition is filed by petitioner under Sec.151CPC r/w Sec.38 of Bharatiya Sakshya Adhinyam,2023(BSA)

2. The Brief averments of the Petition filed by Petition/Respondent in EA.164/2024 are as follows:-

It is stated that, Respondent obtained a Decree for Permanent Injunction against which appeal in Hon'ble Additional District Court, Chidambaram has been filed. Decree of Injunction is not executable. Contempt will lie under appropriate provision. Respondent himself did not have Title to Suit property. To create evidence,

Respondent settled property upon his Wife Mythile under Registered Settlement deed dt.03.09.2009 and then effected Registered Rectification deed dt.29.07.2010. Respondent transferred his right to his wife. Petitioner was unaware of above thing but respondent disturbed Petitioner's right and possession and so OS.256/2011 was filed in this Court seeking Injunction against respondent as he disturbed. Respondent filed written statement but did not disclosed, he had parted right to the property.

It is further stated that, Respondent filed present suit without disclosing he had parted to the property and had no local standi to file the suit. The Settlement Deed clearly states possession handed over to respondent's wife and respondent cannot be in possession. It Can be Respondent is in possession in his own right and another way to be in possession on behalf of his wife. Respondent never claimed to be in possession on behalf of his wife and his wife should have filed the suit and respondent could conduct the case on her behalf but respondent suppressed the truth, played fraud on Court and obtained decree fraudulently. It is Settled Law that decree obtained by fraud is non-est in Law and has no value.

It is further stated that, above said both suits were tried jointly. Petitioner suit was dismissed by decree dt.22.08.2017 while respondent suit was decreed. Petitioner filed AS.19/2019 and AS.202/2019 against such decrees. Pending appeals only, petitioner knew about Settlement Deed and filed IA.80/2020 to receive additional evidence after that respondent accepted the transfer and filed implead petition to add wife as P2 in appeal. Respondent admitted Title in the name of Wife. Petitioner filed rejection of plaint that respondent had no locus standi which was not numbered

against which CRP.3057/2021 filed and dismissed dt.06.01.2022 but given liberty to Agitate the aspect in appeal.

It is further stated that, AS.19/2019 and AS.202/2019 were dismissed for default. Restoration of AS.202/2019 has been numbered but restoration of AS.19/2019 to condone delay yet to be numbered and so As.19/2019 is not over which is fully aware for respondent but he suppressed these facts.

It is further stated that, petitioner being 85 years old house could not move out of house and so allegation that, she disobeyed Order or guilty of disobedient of decree is false and baseless which conduct shows intent of respondent as malice. Where decree is tainted with fraud, there is no question of disobeying it or committing contempt. Alleged Police Complaint is for creating evidence. Petitioner's son filed Writ petition No.29609/2019 in Hon'ble High Court of Madras against Government, Revenue Department, Police. Registering Authority in which Respondent, his wife were R10, R11 and property was found to be Government Land.

It is further stated that, Respondent or his wife have not challenged Hon'ble High Court Order or Revenue record and wanted to overcome developments. Respondent filed EP.40/2023 for alleged contempt with that objective. Contempt will not lie as respondent has no Title, but obtained decree by playing fraud. Petitioner has no locus standi to file suit and the decree is void and non-est in Law even on admitted facts. Detailed Counter has been filed in EP.40/2023 along with documents. Respondent to harass the aged petitioner sought for Police protection in EA.164/2024 pending which was filed preposterously.

It is further stated that, litigation not attained finality and respondent Title and possession is sub judice and so Police protection can neither be sought nor granted. Police protection is dangerous which can do and undo things and court may be able to keep track. It cannot be granted for mere asking, but can be granted in extreme case when there is apprehension of breach of peace. Police protection is given only to effect delivery of property of Superstructure in anticipation of resistance which is required to implement the decree where as, in a decree for Permanent Injunction of vacant site it cannot be implemented. Police cannot run behind decree holders and it is not known what kind of protection given in respect of vacant site. It is rudimentary that, as Injunction decree is inexecutable, seeking police protection is untenable.

It is further stated that, suit property is only vacant site and no protection is required. Petitioner being 83 years old who could not come out of house and seeking contempt, Police protection against her is childish. Possession is vested with petitioner and respondent wanted to arm with police protection, abuse power vested and disposses petitioner. Proceedings require oral evidence, but respondent did not let in any oral evidence. It is prayed to dismiss Police protection as not maintainable.

3. The brief averments of the Counter filed by Respondent are as follows: -

The Petition is false, frivolous, vexatious and unsustainable. The Respondent denied the averments in Petition except expressly admitting facts.

It is stated that, decree obtained by respondent for Permanent Injunction in AS.19/2019 was dismissed for default on 11.04.2019 which has not been restored till date. It is denied that, decree for Permanent Injunction is inexecutable and contempt

petition will not lie. Main EP.40/2023 filed under specific provision for execution of decree of Injunction U/Or.21 R 32 CPC.

It is stated that, question of Title does not arise in suit for Permanent Injunction, but it is based on possession of suit property by plaintiff. The Settlement and Rectification deed by respondent does not affect executability of decree. Though respondent executed Settlement deed as Husband to Wife, he is caretaker of property and act as agent and continuous to be in possession on her behalf. As there is no question of Title, the possession is not lost and EP is maintainable. It is stated that, the allegation that respondent is disturbing Petitioner's right to possession is false and on other hand it is only the petitioner who attempted to disturb respondent's possession and so he filed suit for Injunction.

It is stated that, without disclosing transfer of property the respondent filed suit having no local standi is totally wrong and incorrect. Respondent has got every right to file Suit on behalf of his wife unless it is denied by her. It is stated that, if respondent is stranger it can be said that, he played fraud but he is Husband taking care of properties in view of fact that, wife is living at Singapore and cannot travel often to India and wrongly interpreted as fraud on Court and both appeals filed by petitioner were dismissed for default. It is denied that, Petitioner got knowledge of Settlement deed after IA.80/2020. Neither Settlement deed nor Rectification will affect the suit for decree but to avoid technical objection implead petition was filed which is legally permissible.

It is true that, petitioner's application to reject the plaint was dismissed by

appellate Court and revision by Hon'ble High Court of Madras. Petitioner wantonly allowed appeal to be dismissed for default and did not take genuine attempt to restore in time but taken all sorts of delaying tactics. As no appeal is pending as on date, petitioner is found to obey the decree but her attempts to disturb the respondent's possession is liable to be dealt under Or 21 R 32 CPC. It is the petitioner who is acting with malice. The Police complaint is true but no action was taken. WP No.29609/2019 (subject matter TS.805) is another attempt to trouble respondent's family but false to state that, property found as Government Land. Petitioner's family tried to create cloud over Title. The petitioner filed suit OS.256/2011 in TS.943 but never claimed right over TS.805. Petitioner, through her son filed Writ Petition to give trouble. Item 2 is private property and not Government and there is no need to challenge Revenue records. Revenue records cannot be invoked for title in respect of Suit item 1 TS.805. The contention is totally vexatious as the decree is for Permanent Injunction. The claim that litigation has not attained finality is erroneous as main appeals have been dismissed and so claim that matters is sub judice is wrong. The remarks about police protection petition is totally baseless and unwarranted.

It is further stated that, Claim that property being vacant site, police protection can not be granted is reckless and baseless. Vacant site can be enjoyed by owners in any manners permissible by Law, the decree holder can seek police protection.

It is further stated that, the petition mentioning Sec.38 of BNS is also wrong as the act is applicable to proceedings commenced after promulgation of Act and petition is not maintainable either U/s 151 or Sec.38 of BNS. Hence prays to dismiss

the petition with Cost.

4. Neither the Petitioner nor the Respondent has placed any oral or documentary evidence before this court.

5. Now it is to decide whether this petition is fit to be allowed or not ?

6. Point for discussion:-

6.1) Heard both sides. Records perused. Both side learned counsels argued their Replica of Petition and Counter.

Petitioner Counsel submitted Authorities in support of his case.viz

i) *Annapoorani Vs. Janaki, 1995-1-L.W.141, Madras HC..*

ii) *S.P.Chengalvaraya Naidu (dead) by L.Rs., Appellants Vs. Jagannath (dead) by L.Rs.and others, Respondents, AIR 1994 sc 853, SC.*

6.2) The Petition is filed to dismiss EA164/2024 as not maintainable which has been filed seeking Police Protection for which respondent contested, he being armed with Decree and Appeal was dismissed for default and Petitioner didn't act genuinely to restore Appeal.

6.3) Petitioner Counsel argued that petitioner is aged 85years and could not commit Contempt and seeking Police protection against her is malafide and that mainly, No oral evidence is led by respondent to prove Contempt, and that numbering of Police Protection is not maintainable before in hand. Further argued, decree obtained by Fraud and restoration of Appeal is in progress and that Matter Sub-judice.

Respondent Counsel argued that Respondent armed with Decree and that

Appeal is dismissed for default. Moreover, no genuinity seen to restore Appeal by Petitioner side No steps taken to Restore Appeal which was dismissed against petitioner.

6.4)On perusal of material case records and On considering both side rival submission, petitioner is age old viz 85years which is evident from Affidavit as stated by petitioner and not disputed by Respondent. No oral evidence let in by Respondent to prove petitioner committed Contempt as argued by Petitioner Counsel.

But, on looking into material Records viz CSR 284/2023, CSR 74/2023 at that time , Petitioner age mentioned as 73, it reveals land dispute exists between parties and Petitioner's relatives as well though FIR not registered. Respondent filed petition to SP,NRI and it was forwarded to SP, Cuddalore for immediate action which proves no action taken after CSR. CCTNS online Acknowledgment shows, property damage dispute exists between parties and Petitioner's son Balu and other. This court is of view that, as abovesaid documentary evidence available, Police Protection Petition is numbered as EA164/2024 and at this stage , this court not think fit to dismiss police protection EA as not maintainable as there are material records available that Respondent armed with Decree was disturbed by petitioner through her son and others. No alleged fraud proved to this EP Court and this EP court cannot go beyond Decree and declines to allow the petition in the interest of Justice.

7) In the result, the petition is Dismissed. No Cost.

Dictated to the typist, typed by her in computer, corrected and pronounced by me in the open court, this the 18th day of November 2025.

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

List of witnesses on the side of Petitioner: NIL

List of exhibits on the side of Petitioner: NIL

List of witnesses on the side of Respondent: NIL

List of exhibits on the side of Respondent: NIL

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

Fair/draft order
EA.40/2025
in
EA.164/2024
in
EP.40/2023
in
OS.186/2013
Date: 18.11.2025