

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF,
KANCHEEPURAM

Tmt.B.Sandhiyadevi B.A., B.L., (Hons), L.L.M.,
Additional District Munsif, Kancheepuram.

On Friday, this the 12th day of September 2025
O.S.No.120/2012

CNR. NO. TNKP08-000-413-2012

1. G.Narayanan

.....Plaintiff

/Versus/

1. E.Palani,

2. The Block Development Officer,
 Walajabad, Kancheepuram Taluk.

3. The President,
 Elakkaimangalam Village,
 Kancheepuram Taluk.

.....Defendant

This suit has come up on 01.09.2025 for final hearing before me in the presence of Mr.B.Sivakumar Counsel for the plaintiff and V.Mohan, R.Kameswari, P.Gowtham Counsels for the D1 and D2,D3 being set exparte on 09.07.2012. upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

JUDGMENT

1. This suit is filed for the relief of :-

- for a permanent injunction against the defendant restraining the 1st defendant and his men and agents from in any way putting up any construction in the plaint schedule mentioned property.
- for the cost of this suit.

2. **The Brief averments of the plaintiff as stated in the plaint is as follows:-**

The Plaint schedule mentioned property is Gramanatham vacant site situated in Elakkaimangalam village, Kancheepuram Taluk, Originally belonged to Plaintiff's father Ganesa Naicker as his ancestral property. The Plaintiff's father Ganesa Naicker was in possession and enjoyment as owner till his death on 04.12.1998. After his death his legal heirs namely his wife Datchayani Ammal, 2 sons G.Narayanan I.e, Plaintiff and G.Perumal inherited the suit property. plaintiff's mother Datchayani Ammal died on 31.01.2004 leaving behind the plaintiff and the said G. Perumal as her legal heirs. After which G. Perumal has executed a Release Deed dated 14.03.2012 in favour of the plaintiff, releasing and relinquishing his undivided share and interest in the plaint schedule mentioned property. Hence, the plaintiff has become the absolute owner of the plaint schedule mentioned property. The 1st defendant is the adjacent owner of the eastern side of the plaint schedule mentioned property. The 1st defendant while putting up construction in his house property, trying to encroach upon the plaint schedule mentioned property. The 1st defendant is proceeding with the construction, under the guise of allotment of concrete building under Group Housing Scheme recently introduced by the Government of Tamil Nadu. The 2nd defendant has sanctioned funds for the said construction by the 1st defendant. The plaintiff has issued a notice dated 19.03.2012 to the 1 to 3 defendants and called upon the 1st defendant to stop the construction work. Though the 1st defendant has received the notice, he was adamant in continuing the construction work. The 1st defendant has issued a reply notice dated 09.04.2012 with false and untenable allegations. Hence this suit.

3. **The Brief averments of 1st defendant filed in written statement and the gist of the same is as follows:-**

The Defendant submits that his father Mr.Elumalai Naicker and his brother Munusami

Naicker purchased the schedule mentioned property from one Ramasami Naicker S/o.Ponnappa Naicker under the registered sale deed vide document No.3282/1974 for valuable consideration. From the date of purchase they are in possession and enjoying the same by putting up the hut without any hindrance as absolute owners. Due to ignorance this defendant's father and this defendant did not take steps to transfer the patta into their name.

4. After due verification of revenue records, the government allotted funds for construction of concrete building under the group house scheme to this defendant on 18.11.2010. In the meantime one land broker namely E.R.V. Devendiran, who is the adjacent land owner, had requested this defendant to sell the property. But this defendant and his father refused to sell. Thereafter, the said land broker Mr.Devendiran had instigated plaintiff to create fabricated documents. In the above said situation only, the plaintiff and his brother G.Perumal had created the forgery release deed by means of collusion without any right over the suit schedule mentioned property. The said release deed is not valid under law and void ab initio. The Defendant submits that his family is in possession and enjoying the property under the registered sale deed for more than 38 years and nobody raises any objection for the same. After coming to know the illegal acts of the plaintiff, this defendant had lodged a complaint before the District Crime Branch, Kancheepuram. After the above said complaint, then only the plaintiff had filed the above false suit merely to escape from the police enquiry. At the time of police enquiry, the plaintiff showed the suit pending and tried to show the dispute is civil nature, therefore the police official did not take action against the plaintiff and his brother. Till this date from the date of sale deed, this defendant and his father were in possession and enjoying the property. The Suit for bare injunction is not sustainable .Hence this suit may be dismissed.

5. **Issues:** Based on the plaint and written statement, this Court framed the following issues on 10.04.2014.

- 1) Whether the plaintiff is in possession and enjoyment of the suit property or not?
- 2) Whether the 1st defendant has attempted to encroach upon the suit property as alleged by the plaintiff is true or not?
- 3) To what other relief the plaintiff is entitled to?

6. **Evidence and Exhibits:-**

On the side of the Plaintiff, the Plaintiff himself was examined as PW1 and through him EXA1 to EXA22 marked. Ex.B1 marked through PW1 in his Cross examination. On the side of the defendants, the 1st defendant himself was examined as DW1 and through him EXB2 to EXB12 marked.

The Advocate Commissioner filed the Advocate Commissioner Report, Plan and photographs and the same were marked as Ex.C1 to Ex.C8. For the convenience of discussion, the Commissioner report is marked as Ex.C8, the Commissioner plan is marked as Ex. C3 and the photographs were marked as Ex.C7.

7. **Answer for Issue Nos.1 to 2:-**

Both sides arguments heard. Submissions considered. Records perused. As the Issues No. I and II are inter-related, they are addressed together. From the records, this court finds that the plaintiff has filed this suit for a permanent injunction against the defendant restraining the 1st defendant and his men and agents from in any way putting up any construction in the plaint schedule mentioned property and for the costs of this suit.

8. **The schedule of property as stated in the plaint is described as follows:-**

In Kanchipuram District, in Kanchipuram Taluk, in No. 157, Thiruvangaranai Village Madura, Elakkaimangalam village, in old S.No.192/21 part,

Gramanatham New S.No.192/21B; the vacant site measuring East to West 21feet on both sides; North to South 291 feet on eastern side;285 feet on Western side; Total 6048 sq.ft.Boundaries:- North by cement road,South by S.No.184 and channel; East by Elumalai Naicker vagaiyara land and Devendrangs's land and west by my clients land.Hereinafter called suit property.

9. The learned counsel for the plaintiff argued that the originally the suit property belonged to Plaintiff's father who was in possession and enjoyment till his death on 04.12.1998. Ex.A16 is the Death Certificate of the Plaintiff's father Ganesan. After his demise his legal heirs namely his wife Datchayani Ammal, 2 sons G.Narayanan I.e, Plaintiff and G.Perumal inherited the suit property. Ex.A17 is the legal heir certificate of the plaintiffs father. After the death of plaintiff's mother, the plaintiff's brother, Perumal has executed a Release Deed Ex.A20 dated on 14.03.2012 in favour of the plaintiff, releasing and relinquishing his undivided share and interest in the plaint schedule mentioned property. Hence, the plaintiff has become the absolute owner of the plaint schedule mentioned property. The 1st defendant is the adjacent owner of the eastern side of the plaint schedule mentioned property. The 1st defendant while putting up construction in his house property, trying to encroach upon the plaint schedule mentioned property under the guise of allotment of concrete building under Group Housing Scheme recently introduced by the Government of Tamil Nadu. The plaintiff has issued Ex.A14 a legal notice dated 19.03.2012 to the 1 to 3 defendants and called upon the 1st defendant to stop the construction work. Though the 1st defendant has received the notice, he was adamant in continuing the construction work. The defendant sent Ex.A15 which is the reply dated 09.04.2012 to the legal notice issued by the plaintiff. Hence this suit.

10. In order to prove the case of the plaintiff, the plaintiff himself examined as PW1 and

through him Ex.A1 to Ex.A22 were marked. In order to prove his possession in the suit property the plaintiff relied on Ex.A1 to Ex.A8 the kist receipts, Ex.A9 is the Patta dated 25.02.1987 issued by the special Tahsildar in the name of plaintiffs father Ganesan.Ex.A10 and Ex.A11 is the survey notice issued by special Tahsildar. Ex.A12 and Ex.A13 is the Encumbrance Certificate for the period from 01.01.1987 to 21.01.2010 and from 01.01. 2010 to 16.04.2012 respectively. Ex.A18 and Ex.A19 are thoraya patta and thooya nila padhivedu. Ex.A20 is the release deed executed by the plaintiffs brother in favour of the plaintiff. Ex.A21 and Ex.A22 is the photo and C.D of the suit property.

11. The learned counsel for the defendants argued that his father Mr.Elumalai Naicker and his brother Munusami Naicker purchased the schedule mentioned property from one Ramasami Naicker under the registered sale deed Ex.B2 vide document No.3282/1974 for valuable consideration. From the date of purchase they are in possession and enjoying the same by putting up the hut without any hindrance as absolute owners. Due to ignorance this defendant's father and this defendant did not take steps to transfer the patta into their name. In the above said situation only, the plaintiff and his brother G.Perumal had created the forgery release deed by means of collusion without any right over the suit schedule mentioned property. The said release deed Ex.A20 is not valid under law and void ab initio.

12. On the side of the defendants, Ex.B1 marked through PW1 in his Cross examination. The 1st defendant was examined as DW1 and through him Ex.B2 to Ex.B12 were marked. In support of his claim, the defendant relied on Ex.B2 which is the certified copy of the sale deed dated 30.11.1974 executed by the Ramasamy Naicker, S/o. Ponnappa Naicker in favour of Elumalai Naicker and Munusamy Naicker. Ex.B3 Encumbrance certificate for the period between 01.01.1960 to 31.12 1986 in which it is

mentioned as ezhumalai Naicker and munusamy Naicker. Ex.B4 Encumbrance certificate for the period between 01.01.1987 to 25.03 2012. Ex.B5 is the legal notice issued by the plaintiff dated 19.03.2012. Ex.B6 is the reply to the legal notice issued by the plaintiff dated 09.04.2012. Ex.B7 is the acknowledgement card. Ex.B8 is the letter dated 10.04. 2012 issued by the Block Development Officer, Walajabad. Ex.B9 is the returned caveat petition sent to the plaintiff. Ex.B10 is the returned caveat petition sent to the plaintiffs brother.. Ex.B.11 is the certified copy of A register. Ex.B.12 is the certified copy of SLR obtained through RTI.

13. Upon careful perusal of the documents filed by the plaintiff, Ex.A1 to Ex.A8 are the kist receipts in the name of plaintiffs father Ganesan, S/o Veerabathran pertaining to the period between 1974 to 1979.

14. On perusing the aforementioned documents, it is evident that the kist receipts filed by the plaintiff are pertaining to the period between 1974 to 1979. He has not filed any such documents pertaining to the date of institution of suit.

15. The plaintiff relied on Ex.A9, Ex.A18 and Ex.A19 to prove his possession in the suit property. On careful perusal of Ex.A9 which is the Patta dated 25.02.1987 issued by the special Tahsildar in the name of plaintiff's father Ganesan, S/o Veerabathran with respect to the undivided S.No.192/21. The patta number was mentioned as 620. The plaintiff failed to mention the relevant fact as to when the S.No.192/21 was subdivided into S.No.192/21A and S.No.192/21B and failed to produce evidence for the same. Further, on perusing Ex.A18 which is the manaivaari thoraya patta issued by the Zonal Deputy Tahsildar in the name of plaintiff's father which is an after suit document.

16. On marking of documents, the same was objected by the defendant counsel on the ground that plaintiffs father name is Ganesan, S/o Veerabathran but in Ex.A18 it is mentioned as ப. கணேசன். In respect

of the same the PW1 deposed as follows :- “**வா.சா.ஆ 18** ஆவணத்தின்படி பட்டா எண்.320 இல் கண்டுள்ள சர்வே எண் **192/21B** ன் ஊரிமையாளர் பா. கணேசன் என்று குறிப்பிடப்பட்டுள்ளது. ஆனால் தவறுதலாக கணேசன் பெயரில் குறிப்பிடப்பட்டுள்ளது.”

17. Whiles, Ex.C5 is the Natham nilavari thooya chitta in respect of suit property issued by the V.A.O in which the owner of the property is mentioned as பா. கணேசன் and Ex .C6 is the Natham thittai thooya adangal in respect of suit property issued by the V.A.O in which the owner of the property is mentioned as பா. கணேசன். In respect of Ex.A18 the plaintiff has not filed any rectification documents and produced the same.

18. Further the plaintiff relied on Ex.A19 which is the Thooya nila pathivedu which is in the name of plaintiffs father pertaining to S.No. 192/21A which is not the suit property. In respect of the same the PW1 deposed as follows :- “**நான் தாக்கல் செய்த வா.சா.ஆ.19** ஆவணம் புல எண் **192/21A** சம்பந்தப்பட்டது என்றால் சரிதான்” From the above it is clear that Ex.A19 is not pertaining to the suit property. Hence the same cannot be relied upon.

19. At this juncture it is pertinent to consider the Advocate Commissioner report. Based on the petition made by the plaintiff in I.A.No.230/2018, an advocate commissioner was appointed. The Advocate Commissioner along with the Taluk surveyor inspected the suit property and filed his report along with the Advocate Commissioner report, plan and photographs which were marked as Ex.C1 to C8. In the Advocate Commissioner report which is marked as Ex.C8, it is reported as follows:- “**27x11** அடி என்ற அளவில் ஒரு பனை ஓலை வைத்த குடிசை இருந்தது இது FGH ஆக குறியீடு செய்யப்பட்டுள்ளது. இந்த குடிசை FGH ல் ஏழுமலை என்பவர் குடும்பத்துடன்

வசித்து வருகிறார்.வரைபடத்தில் QRST என குறிக்கப்பட்ட வைக்கோல் போருக்கு கிழக்கு பகுதியில் மாடி படியுடன் கூடிய கட்டிடம் ஒன்று இருந்தது. இதில் பழனி த/பெ. ஏழுமலை என்பவர் வசித்து வருகிறார்”.

20. With respect to the Advocate Commissioner report, the plaintiff in his deposition as PW1 categorically deposed as follows :- நீதிமன்ற ஆணையர் நிலத்தை அளந்த போது நான் உன் இருந்தேன். என் இடத்திற்கு அருகில் உள்ள சர்வே எண் 192/21 டி என்றால் சரிதான். நீதிமன்ற ஆணையர் இடத்தை அளக்க வரும்போது அந்த இடத்தில் குடிசை இருந்தது. ஏழுமலை நாயக்கர் அந்த இடத்தில் தான் வசித்து வந்தார். அவ்வப்போது குடிசை போட்டு வசித்து வருவார் அவ்வப்போது குடிசை போட்டு வசித்து வருவதாக சொல்லப்படும் சாராம்சங்கள் என்னுடைய வாதுரையில் சொல்லவில்லை என்றால் சரிதான்.

21. This present suit is filed by the plaintiff seeking relief of permanent injunction. In such circumstances, Plaintiff must prove his actual possession of the suit property. The burden of proof lies upon the plaintiff to prove that he was in actual and physical possession of the property on the date of filing this suit. On the conjoined reading of all the above oral and documentary evidence, there is no scrap of paper or shred of evidence to show that the plaintiff was in possession of the suit property on the date of filing of the instant suit or afterwards. As a result, the plaintiff failed to establish that the defendant attempted to encroach upon the suit property. Hence, this Court is not inclined to hold that the Plaintiff is in lawful and peaceful possession of the suit property.

22. Moreover, In the instant case the title of the property is itself under dispute and in spite of that, the plaintiff without seeking his remedy for declaration and for recovery of possession, he has proceeded with the instant suit for injunction simplicitor. In a suit

for bare injunction, it is the onus on the plaintiff to establish his possession over the suit property. In the present case, the advocate commissioner report Ex.C8 asserted the possession of the defendants over the suit property prior to the alleged date of cause of action and even prior to the institution of the suit. Accordingly, it is evident that the plaintiff is not in possession of the suit property.

23. It is well-settled that for the grant of permanent injunction, the Plaintiff has to satisfy two conditions. First, the Plaintiff ought to have been in lawful possession of the suit property on the date of institution of the suit. Secondly, the Defendants ought to have disturbed his possession and it makes the Plaintiff apprehend that the Defendants will disturb his possession in future as well. As the Plaintiff has failed to satisfy the condition of being in lawful possession of the suit property on the date of institution of the suit, this Court has decided Issues No. I & II as against the Plaintiff.

24. Answer for Issue No.3: -

As this court decided that, the plaintiff is not in possession and enjoyment of the suit property, the plaintiff is not entitled to the relief of permanent injunction against the defendant restraining the 1st defendant and his men and agents from in any way putting up any construction in the plaint schedule mentioned property. Hence, this court decided that the plaintiff is not entitled to any other reliefs. Hence this issue is answered accordingly.

25. In the result, this suit is dismissed and the parties shall bear their own costs.

Dictated to the typist, who directly typed in computer corrected and pronounced by me in open court this the 12th day of September 2025.

**Additional District Munsif,
Kancheepuram.**

Plaintiff side Witnesses:-

PW1 – Narayanan (Plaintiff)

Plaintiff side Exhibits:-

EX.A.1	21.04.1974	Kist Receipt	Original
EX.A.2	21.04.1974	Kist Receipt	Original
EX.A.3	05.11.1975	Kist Receipt	Original
EX.A.4	07.05.1976	Kist Receipt	Original
EX.A.5	21.03.1977	Kist Receipt	Original
EX.A.6	16.05.1978	Kist Receipt	Original
EX.A.7	23.03.1979	Kist Receipt	Original
EX.A.8	05.12.1979	Kist Receipt	Original
EX.A.9		Patta (Patta No.620) standing in the name of Plaintiff's father given by Zonal Deputy Tahsildar	Original
EX.A.10		Survey Notice given by	Original
EX.A.11		Survey Notice given by	Original
EX.A.12		Encumbrance certificate from 01.01.1987 to 21.01.2010	
EX.A.13		Encumbrance certificate from 01.01.2010 to 16.04.2012	Original
EX.A.14	19.03.2012	Advocate's Legal Notice given by Plaintiff to Defendant	Original
EX.A.15	09.04.2012	Reply notice given by Defendant to Plaintiff	Original
EX.A.16	21.12.1998	Death certificate of Plaintiff's father	Original
EX.A.17	17.09.2001	Legal Certificate given by Tahsildar	
EX.A.18		Manaivaari thoraya patta issued by the Zonal Deputy Tahsildar (Marked with objection)	Original

EX.A.19		Thooya nila pathivedu given by Sub Officer and District Collector's Personal Secretrary	Certified Copy
EX.A.20	14.03.2012	Release deed executed by the plaintiffs brother in favour of the plaintiff	Certified Copy
EX.A.21		Photo	Original
EX.A.22		CD	Original

Defendant's side Witnesses :-

DW1- Palani

Defendant's side Exhibits:-

EX.B.1	22.02.2012	Certified copy of Partition deed between Plaintiff and Plaintiff's brother	Certified copy
EX.B.2	30.11.1974	Certified copy of Sale deed in favour of Plaintiff's father and his brother	Certified copy
EX.B.3		Encumbrance certificate from 01.01.1960 to 31.12.1986	Original
EX.B.4		Encumbrance certificate from 01.01.1987 to 25.03.2012	Original
EX.B.5	19.03.2012	Advocate's Legal Notice	Office Copy
EX.B.6	09.04.2012	Reply given by Defendant	Office Copy
EX.B.7		Acknowledgment Card (No.s-3)	Original
EX.B.8	10.04.2012	Letter issued by the Block Development Officer, Walajabad.	
EX.B.9		The returned caveat petition sent to the plaintiff.	
EX.B.10		The returned caveat petition sent to the plaintiffs brother.	
EX.B.11		A Register	Certified Copy
EX.B.12		The certified copy of SLR obtained through RTI.	Certified Copy

Court Side Exhibits:-

EX.C.1	05.12.2018	Order in IA 230/2018 in OS 120/2012	Office Copy
EX.C.2		Notice by Advocate Commissioner	Original
EX.C.3		Plan given by Advocate Commissioner	Original
EX.C.4	17.05.2019	Survey Commissioner report	Xerox copy
EX.C.5	17.05.2019	Chitta given by VAO	Xerox copy
EX.C.6	17.05.2019	Adangal Register given by VAO	Xerox copy
EX.C.7		Photos	
EX.C.8		Advocate Commissioner Report	Original

**Additional District Munsif,
Kancheepuram.**