



In the Court of Additional District Judge, Dindigul.

Present: Thiru. Swarnam J.Rajagopalan, B.A.,B.L.,(Hons)

Additional District Judge, Dindigul.

Friday, dated this the 17th day of July, 2026

Original Suit No.347/2026

CNR.No.TNDG01-001912-2025

1. Tmt.Shiyamala
2. Thiru.Manivelan
3. Thiru.Naveenkumar
4.Thiru.Praveen

... Plaintiffs

- Vs -

Tmt.Sudhananthini

... Defendant

This suit was coming up on 30.01.2026, for final hearing before me in the presence of Thiru.A.Nazar Mohamed, Advocate for plaintiff and of Thiru.K.Sakthivelrajan, Advocate for defendant and defendant side written statement not filed and set exparte on 25.02.2026, and upon hearing the arguments of the plaintiff's side, and upon perusal of records and having stood over to this day for consideration this Court passed the following....

JUDGMENT

The present suit has been instituted by the Plaintiffs seeking a decree for recovery of possession, directing the Defendant, who is in illegal and unauthorized possession of the suit schedule property, to vacate and deliver vacant and peaceful possession thereof to the Plaintiffs. The Plaintiffs further seek a decree of Mandatory Injunction directing the Defendant to hand over to the Plaintiffs the original title deed

relating to the suit schedule property, namely, the original document executed by Savithri under Document No. 2285/2015 dated 15.07.2015, which is unlawfully retained in the Defendant's possession. The Plaintiffs also pray for the costs of the suit and such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

01. Brief averments of the plaint is as follows:-

- i. The plaintiffs have produced the Genealogical Tree along with the plaint to establish their relationship. As per the Genealogical Tree, Late Nannu Veerabhadra Iyer @ Nannusamy Iyer and Krishnammal had three sons and three daughters. The 1st Plaintiff is one of the legal heirs of their eldest son, Ramamoorthy. The 1st Plaintiff's brother, Balaji, died unmarried and intestate, leaving no legal heirs. The 1st Plaintiff's sister, Nagajothi, died intestate in the year 2021, leaving Plaintiffs 2 to 4 as her legal heirs.
- ii. The suit schedule property was purchased by Savithri, the youngest legal heir of Late Nannu Veerabhadra Iyer @ Nannusamy Iyer and Krishnammal, under a registered Sale Deed dated 15.07.2015, registered as Document No. 2285/2015, for valid consideration from (1) Jayanthi, wife of Late. K.R.Jayaraman, (2) J. Arun, and (3) J. Amarnath @ Sridhar. Thereafter, Savithri remained in peaceful possession and enjoyment of the property by paying all taxes and public charges.

- iii. Savithri had married one Balasubramanian, who died within about one and one-fourth years of the marriage, and no children were born through the wedlock. She thereafter remained a widow throughout her lifetime and did not contract any second marriage. She served as a teacher in Nilakottai Sourashtra Middle School and retired from service in the year 2002. Utilizing her retirement benefits, she purchased the suit property under the aforesaid Sale Deed and resided therein until her demise.
- iv. As Savithri had no direct legal heirs, she executed her last and final Will and Testament on 19.05.2017 before a Notary, intending to bequeath her movable and immovable properties among the legal heirs of her siblings. The said Will is her only and final testamentary disposition. Savithri died on 16.07.2017, and her death was duly registered by the Nilakottai Selection Grade Town Panchayat under Registration No. 78/2017/01.
- v. After her demise, the Will was duly acted upon with the consent and without objection from all the legal heirs of her brothers and sisters. Subsequently, the 1st Plaintiff and Nagajothi (then alive), along with the other beneficiaries under the Will, filed S.O.P. No.1 of 2018 before the Principal Sub Court, Dindigul, seeking Letters of Administration/appropriate succession relief in respect of the Will. By order dated 08.01.2019, the Court allowed the petition after examining the attesting witnesses and holding that the execution of the Will had been duly proved in accordance with law.

- vi. Under the said Will dated 19.05.2017, the suit schedule property was specifically bequeathed as Item No.1 in favour of Nagajothi and Shyamala (1st Plaintiff) jointly. The Will specifically records that Nagajothi and Shyamala alone had cared for Savithri from the beginning, attended to her during her illness, and particularly that Shyamala took care of Savithri even when she underwent treatment for diabetes, including amputation of four toes of her left foot. In appreciation of their love, care and services, Savithri bequeathed the suit property, cash and gold ornaments exclusively in their favour.
- vii. Pursuant to the Will, the Tahsildar, Nilakottai, by proceedings in Na.Ka. No.6494/2020/A2 dated 23.11.2020, issued the Legal Heir Certificate recognizing Nagajothi and the 1st Plaintiff as the legal heirs of Savithri. Consequently, Property Tax Assessment Nos. 7544 and 7545, the electricity service connections, and Water Connection Nos. 773 and 1045 were transferred to their names, and all taxes and charges have since been regularly paid by them. Accordingly, Nagajothi and the 1st Plaintiff became the lawful owners of the suit schedule property. Balaji, the brother of the 1st Plaintiff and Nagajothi, having remained unmarried and without legal heirs, was permitted to occupy the suit property as a tenant from April 2018 on a monthly rent of Rs.4,000/-. He paid Rs.2,000/- every month by depositing the amount into Nagajothi's Indian Overseas Bank Account at Chromepet Branch and paid the balance of Rs.2,000/- in cash to the 1st Plaintiff. He continued to pay rent until

10.10.2019 and thereafter died intestate on 24.11.2019. Subsequently, Patta No. 2189 also stood transferred in the names of the Plaintiffs. Thus, the Plaintiffs became the absolute owners of the suit property.

viii. During Balaji's lifetime, the Defendant was assisting him while he was undergoing treatment for severe diabetes and kidney-related ailments. After Balaji's demise, the Defendant unlawfully continued to occupy the suit property without any legal right or authority. Although the Defendant repeatedly assured that he would vacate the premises within a few months, he continued his occupation by citing the COVID-19 lockdown as an excuse. Even thereafter, he represented that he would hand over vacant possession to the 1st Plaintiff and Nagajothi. In the meantime, Nagajothi died intestate on 21.08.2021, leaving Plaintiffs 2 to 4 as her legal heirs, and a Legal Heir Certificate dated 01.12.2021 was accordingly issued in their favour.

ix. Prior to the death of Nagajothi, the Defendant, with a dishonest intention to grab the suit property, falsely claimed that Balaji was the husband of Savithri and that Savithri had entrusted the original Sale Deed dated 15.07.2015 to Balaji with an understanding that he would enjoy the property after her lifetime. On the basis of such false claims, the Defendant caused a legal notice dated 10.03.2021 to be issued to the 1st Plaintiff and Nagajothi. The said notice was suitably replied to by the Plaintiffs through their counsel on 23.03.2021. Thereafter, the Defendant instituted O.S. No.42 of 2021 before the District

Munsif Court, Nilakottai, seeking a decree of permanent injunction restraining interference with his alleged possession. The said suit was ultimately dismissed for default on 20.11.2023.

- x. Although the Defendant repeatedly represented that he would vacate the premises, he deliberately prolonged the matter and instituted O.S. No.42 of 2021 only to delay the Plaintiffs' lawful claim, fully aware that he had no legal right over the property. The Defendant has wrongfully retained the original Sale Deed dated 15.07.2015 (Document No.2285/2015), which had been entrusted to Balaji only for safe custody, and has unlawfully appropriated the same.
- xi. The Defendant's possession is wholly unauthorized and illegal. Mere possession of the original title deed does not confer any title, ownership or possessory right over the suit property. The Defendant is under a legal obligation to surrender vacant possession of the suit property and return the original Sale Deed to the Plaintiffs. Despite repeated oral demands, including the final demand made on 01.03.2025, the Defendant has failed and neglected to vacate the premises or hand over the original title deed.
- xii. Hence, the Plaintiffs have instituted the present suit seeking recovery of possession of the suit schedule property, a mandatory injunction directing the Defendant to deliver the original Sale Deed dated 15.07.2015 (Document

No.2285/2015) to the Plaintiffs, while reserving their right to claim damages for mental agony and hardship suffered on account of the Defendant's unlawful acts, together with such further or other reliefs as this Hon'ble Court may deem fit and proper.

xiii. The Plaintiffs have established a prima facie case, the balance of convenience lies entirely in their favour, and they are entitled to the reliefs prayed for.

3. Though summons was duly served and the Defendant entered appearance through counsel, no Written Statement was filed despite sufficient opportunities. Consequently, the Defendant was set ex parte.

4. Evidence:

On the side of the Plaintiffs, the 2nd Plaintiff examined herself as P.W.1 and reiterated the plaint averments.

The Plaintiffs marked Exs.A1 to A16, namely:

S.No.	Date	Details of Documents
Ex.A1	--	Genealogy table showing the relationship of the plaintiffs
Ex.A2	15.07.2015	Sale deed purchased by Savithiri from Late Jayaram's wife Jayanthi and her sons (Document No.2285/2015)
Ex.A3	19.05.2017	Will executed by Savithiri - Original
Ex.A4	16.07.2017	Death Certificate of Savithiri
Ex.A5	08.01.2019	Order passed in S.O.P.No.1/2018 in the Dindigul Sub-Court

Ex.A6	23.11.2020	Legal Heirship Certificate of Savithiri
Ex.A7	--	Property tax receipts paid by the 1 st plaintiff for the suit properties (Count:6)
Ex.A8	--	Drinking water charges receipts for the suit properties
Ex.A9	--	Savings Bank Account passbook of the said Nagajothi from Indian Overseas Bank, Chrompet Branch, Chennai
Ex.A10	--	House Tax Patta No.2189 standing in the name of the plaintiffs
Ex.A11	21.08.2021	Death Certificate of Nagajothi
Ex.A12	01.12.2021	Legal Heir Certificate of Nagajothi
Ex.A13	10.03.2021	Registered post notice sent by the Defendant's Counsel to the 1 st Plaintiff' and Nagajothi
Ex.A14	23.03.2021	Registered Post reply notice sent on behalf of the 1 st Plaintiff through the said counsel to the Defendant's counsel
Ex.A15	20.11.2023	Order passed in O.S.No.42/2021 in the District Munsif Court, Nilakottai
Ex.A16	--	Government Guideline Value Certificate of the suit property

4. Points for Determination:

The following points arise for consideration:

1. Whether the Plaintiffs are entitled to recovery of possession?
2. Whether the Plaintiffs are entitled to a decree of Mandatory Injunction directing the Defendant to hand over the original Sale Deed dated 15.07.2015?
3. To what other reliefs are the Plaintiffs entitled?

5. Point Nos.1 to 3

The burden initially lies upon the plaintiffs to establish their title to the suit schedule property and the unlawful occupation of the defendant. Even though the defendant has remained ex parte, the plaintiffs are not entitled to a decree as a matter of course and must independently establish their entitlement by adducing cogent oral and documentary evidence. In the present case, the plaintiffs have discharged the said burden satisfactorily for the reasons stated as under.

6. Ex.A2 is the registered Sale Deed dated 15.07.2015 executed in favour of Savithri in respect of the suit schedule property. A registered conveyance carries a statutory presumption regarding its genuineness, and there is absolutely no material available before this Court to doubt either its execution or validity. Thus, the title of Savithri over the suit property stands conclusively established.

7. The plaintiffs further rely upon Ex.A3, the original Will dated 19.05.2017 executed by Savithri. The said Will has already been subjected to judicial scrutiny in S.O.P. No.1 of 2018 before the Principal Sub Court, Dindigul. Ex.A5, being the certified copy of the order dated 08.01.2019, discloses that the competent Court examined the attesting witnesses, found due execution and attestation of the Will in accordance with law, and consequently granted the appropriate succession relief. The said order has attained finality, and there is nothing on record to indicate that the same has been

challenged before any superior forum. Therefore, the testamentary succession claimed by the plaintiffs stands duly proved.

8. Under the terms of the said Will, the suit schedule property was specifically bequeathed jointly in favour of the 1st Plaintiff and Nagajothi. Consequently, upon the demise of Savithri, title over the suit property devolved upon them by virtue of the testamentary disposition contained in Ex.A3 and not by reason of any revenue entry or legal heirship certificate.

9. The subsequent revenue records and municipal records produced by the plaintiffs further corroborate their possession and enjoyment of the property. Ex.A6, Ex.A7, Ex.A8, Ex.A10 and Ex.A11 reveal that the revenue and local body records were mutated in their favour and that they have been continuously paying property tax, water charges and other statutory dues. Though such revenue records do not by themselves confer title, they constitute strong corroborative evidence supporting the plaintiffs' lawful possession and exercise of ownership over the property.

10. Ex.A11 and Ex.A12 establish that Nagajothi died intestate on 21.08.2021 and that Plaintiffs 2 to 4 are her legal heirs. Consequently, they have lawfully succeeded to her interest in the suit schedule property.

11. The consistent case of the plaintiffs is that Balaji, brother of the 1st Plaintiff, was inducted into the property only as a tenant on a monthly rent and that after his demise, the defendant, who had been assisting Balaji during his illness, unlawfully

continued in occupation of the premises without any authority. There is absolutely no evidence before this Court to indicate that the defendant acquired any independent title, tenancy, licence or any other legally recognizable right to remain in possession of the suit property.

12. On the contrary, Ex.A13 and Ex.A14 disclose that the defendant attempted to set up a claim over the property by issuing a legal notice alleging that Balaji was the husband of Savithri. However, the plaintiffs immediately repudiated the said claim by issuing a detailed reply notice. Thereafter, the defendant instituted O.S. No.42 of 2021 seeking permanent injunction. Significantly, Ex.A15 establishes that the said suit came to be dismissed for default. Although dismissal for default may not operate as *res judicata*, it nevertheless demonstrates that the defendant failed to prosecute his alleged claim. More importantly, in the present suit, despite entering appearance initially, the defendant neither filed a written statement nor entered the witness box to substantiate any legally enforceable right over the property.

13. The law is well settled that mere possession of the original title deed does not create or confer ownership over immovable property. Ownership can arise only through a valid transfer, inheritance or testamentary succession recognized by law. In the present case, the plaintiffs have established their title by producing the registered Sale Deed, the duly proved original Will and the judicial order recognizing the validity of the Will. In contrast, the defendant has failed to establish any legal basis whatsoever for his occupation.

14. The plaintiffs have also sought a decree of mandatory injunction directing the defendant to return the original Sale Deed dated 15.07.2015. The evidence on record establishes that the original document had been entrusted to Balaji only for safe custody and thereafter came into the possession of the defendant. Since the defendant has no lawful claim either over the property or over the original title deed, his continued retention of the document is wholly unauthorized. The lawful owners alone are entitled to retain custody of the original title document. Consequently, the plaintiffs are entitled to a mandatory injunction directing the defendant to hand over the original Sale Deed.

15. The oral evidence of P.W.1 is clear, consistent and fully supported by the documentary evidence marked as Exs.A1 to A16. The testimony remains entirely unchallenged in view of the defendant having remained ex parte. Nothing has been brought before this Court to create any doubt regarding the truthfulness or credibility of the plaintiffs' evidence.

16. Accordingly, this Court is satisfied that the plaintiffs have successfully established their lawful title over the suit schedule property, the unauthorized occupation of the defendant and their entitlement to recover possession as well as to obtain delivery of the original title deed.

17. Upon a careful consideration of the pleadings, the unrebutted oral evidence of P.W.1 and the documentary evidence marked as Exs.A1 to A16, this Court finds that

the plaintiffs have satisfactorily established their lawful title to the suit schedule property through the registered Sale Deed dated 15.07.2015 (Ex.A2) executed in favour of Savithri and the testamentary succession flowing from the Will dated 19.05.2017 (Ex.A3), the validity of which has already been recognized by the competent Civil Court in S.O.P. No.1 of 2018 (Ex.A5). The subsequent mutation of revenue and municipal records and payment of taxes by the plaintiffs further corroborate their possession and enjoyment of the property.

18. The evidence further establishes that Balaji was only permitted to occupy the property as a tenant during his lifetime and that, after his demise, the defendant continued in possession without any lawful authority. The defendant has neither filed a written statement nor adduced any evidence to establish any independent right, title or interest over the suit property. The earlier suit instituted by the defendant having been dismissed for default, and there being no material to substantiate his claim, his occupation of the suit property is nothing but unauthorized and illegal.

Accordingly, this Court holds that the plaintiffs have proved their case on the preponderance of probabilities and are entitled to all the reliefs sought in the plaint. Therefore, Point Nos.1 to 3 are answered in favour of the plaintiffs.

20. Result

In the result, the suit is decreed with costs. Accordingly, it is ordered as follows:

1. The Defendant shall vacate the suit schedule property and deliver vacant, peaceful and physical possession thereof to the Plaintiffs within two (2) months from the date of this Judgment.
2. The Defendant shall hand over to the Plaintiffs the original registered Sale Deed dated 15.07.2015, executed by Jayanthi, J. Arun and J. Amarnath @ Sridhar in favour of Savithri, registered as Document No.2285 of 2015, within the aforesaid period of two (2) months.
3. In the event of the Defendant failing to comply with the directions contained in Clauses (1) and (2) within the stipulated period, the Plaintiffs shall be at liberty to execute this decree in accordance with law.
4. The Defendant shall pay the costs of the suit to the Plaintiffs.

Dictated to steno-typist and directly typed by her in the computer, corrected and pronounced by me in open Court this 17th day of July 2026.

Additional District Judge,
Dindigul.

Annexures:

List of witness on the side of Plaintiff:

P.W.1 -Thiru.Manivelan (2nd Plaintiff)

List of Exhibit on the side of Plaintiff:

S.No.	Date	Details of Documents	Nature
Ex.A1	--	Genealogy table showing the relationship of the plaintiffs	
Ex.A2	15.07.2015	Sale deed purchased by Savithiri from Late Jayaram's wife Jayanthi and her sons (Document No.2285/2015)	Certified copy

Ex.A3	19.05.2017	Will executed by Savithiri	Original
Ex.A4	16.07.2017	Death Certificate of Savithiri	Computer Copy
Ex.A5	08.01.2019	Order passed in S.O.P.No.1/2018 in the Dindigul Sub-Court	Certified Copy
Ex.A6	23.11.2020	Legal Heirship Certificate of Savithiri	Certified Copy
Ex.A7	--	Property tax receipts paid by the 1 st plaintiff for the suit properties (Count:6)	Original
Ex.A8	--	Drinking water charges receipts for the suit properties	Original
Ex.A9	--	Savings Bank Account passbook of the said Nagajothi from Indian Overseas Bank, Chrompet Branch, Chennai	Original
Ex.A10	--	House Tax Patta No.2189 standing in the name of the plaintiffs	Original
Ex.A11	21.08.2021	Death Certificate of Nagajothi	Original
Ex.A12	01.12.2021	Legal Heir Certificate of Nagajothi	Original
Ex.A13	10.03.2021	Registered post notice sent by the Defendant's Counsel to the 1 st Plaintiff' and Nagajothi	Served
Ex.A14	23.03.2021	Registered Post reply notice sent on behalf of the 1 st Plaintiff through the said counsel to the Defendant's counsel	Office Copy
Ex.A15	20.11.2023	Order passed in O.S.No.42/2021 in the District Munsif Court, Nilakottai	Computer Copy
Ex.A16	--	Government Guideline Value Certificate of the suit property	Computer Copy

List of witness and Exhibit examined on the side of the Defendant :

-Nil-

**Additional District Judge,
Dindigul.**