

IN THE COURT OF THE SUBORDINATE JUDGE, SALAMANDER.

PRESENT: Tmt.K.S.Shabeena, M.L.,
Subordinate Judge, Sathyamangalam.

Tuesday, the 30th day of June 2026
(2057 Thiruvalluvarandu Paravane varudam Aani Thingal 16th day)

O.S.No.65 of 2023
CNR No.TNED 050001032023

Vellakutty

... Plaintiff

/Vs/

Rani

... Defendant

This suit came up for final hearing before me on 30.06.2026 in the presence of Thiru.R.Prakash, Advocate for the Plaintiff and Thiru.K.Thangarajan, Advocate for the defendant and upon perusing the records, hearing the arguments of both side having stood over for consideration till this day, this Court delivered the following....

Judgment

The plaintiff filed the present suit seeking declaration that the settlement deed dated 03.07.2017 is null and void and inoperative and thereby the defendant has no manner of right, title or interest over the suit property and permanent injunction.

1. The Brief facts of the Plaint as stated by the Plaintiff:

1. The plaintiff had stated that the suit property originally belonged to one Raju under a registered sale deed dated 26.04.1982. According to the plaintiff, although

Raju acquired title, he never entered into possession nor cultivated the property. The plaintiff, having purchased the adjacent southern land on the very same date, gradually took possession of the suit property also and had been openly, continuously, peacefully and uninterruptedly cultivating and enjoying the same as owner.

2. After 13 years the said Raju along with the defendant's husband, Subramani, attempted to interfere with his possession and so the plaintiff had suit in O.S.No.81/1995 on the file of the district munsif seeking a declaration of perfected title by adverse possession and permanent injunction. And the same was decreed in his favour on 29.09.2000, declaring his title and granting permanent injunction.

3. Subsequently the defendant's mother in law, muthammal filed OS.No.2/2005 challenging the judgment and decree passed in OS.No.81/1995. the said suit was dismissed on 22.11.2007. the appeal preferred by the said muthammal in AS.No.13 of 2008 was also dismissed on 22.08.2008, thereby confirming the earlier decree in favour of the plaintiff.

4. The Plaintiff further stated that the said Muthammal had earlier obtained an ex parte decree against Raju in OS.No.291/1998 for execution of sale deed and in pursuance thereto, obtained a court executed sale deed dated 13.03.2002 and delivery of possession through execution of the sale deed dated 13.03.2002 and delivery of possession through execution proceedings. Since the plaintiff was away at the time of delivery he could not immediately object. Thereafter, he filed an EA.No.19/2003, wherein the court held that the court executed sale deed in favour of the said

muthammal and the delivery of possession effected pursuant thereto were not legally sustainable. The Executuion Court order restoration of the possession to the Plaintiff and possession was accordingly re delivered through court Amin in december 2007. The said appeal preferred against the said order in AS.No.14/2008 was also dismissed thereafter affirming the order restoring the possession to the plaintiff. Thereafter the plaintiff was in continuous possession and cultivation of the suit property and his possession is evidenced through the revenue records and tax receipts.

5. The plaintiff further stated that the said Muthammal Died on 29.10.2014 leaving her son subramani, the defendant's husband as her sole legal heir. Despite being fully aware that the court had executed a sale deed and the consequential relief of delivery of possession in favour of muthammal had already been declared invalid by the executing court, the said subramni had falsely represented that the property belonged to his mother and executed a registered settlement deed dated 30.03.2017 in favour of the defendant.

6. On the strength of the said settlement deed the defendant and her men had allegedly attempted to interfere in the peaceful possession of the plaintiff and the same was restricted by the assistance of his neighbours. The plaintiff had stated that the settlement deed dated 03.07.2017 is void and inoperative and thereby the defendant has no manner of right, title or interest over the suit property. Hence this suit.

2. The brief facts of the Written Statement filed by defendant:

1. The defendant had file her written statement denying all the materials made in the plaint and also set up a counter claim seeking declaration of own title and consequential permanent injunction. The defendant contends that the suit is false , frivolous , not maintainable either in law or on facts and has been instituted on fabricated allegations and except the facts specifically admitted and the plaintiff is put to strict proof of the same.

2. The defendant had stated that one Raju had purchased the suit property by way of sale deed dated 26.04.1982 and had been cultivating the land and enjoying the property. Further stated that under the sale transactions dated 26.04.1982 the plaintiff had purchased only the southern extent measuring 1.52 1/2 acres while the said Raju had purchased the northern extent which is the suit property. Further stated that the plaintiff himself and subsequently sold his southern property to one gauhar jan by a registered sale deed dated 04.03.1996. in the said schedule of property of the said sale deed, the northern boundary is mentioned as Raju's property and not as the property of the plaintiff or he is in possession. If really the plaintiff had been in the possession then it would have been mentioned as the plaintiffs property. Further the defendant had relied upon the subsequent sale deed dated 05.04.2004 executed by one Gauhar jan in favour of one Kandhayi, wherein the northern boundary is again described as the Raju's property. Thereby this according to the defendant clearly disproves the plaintiff's claim regarding adverse possession.

3. The defendant contends that the plaintiff had suppressed the material

documents while instituting the OS.No. 81/1995 and thereby obtained a decree by suppressing the material facts and by playing fraud upon the court. Consequently, the Judgment and decree passed in OS.No 81/1995 do not confer any valid title upon the plaintiff and deserved to be set aside. Further the defendant contend that the proceedings in EA.No.19/2003 are not legally sustainable and cannot affect the defendant's independent title.

4. The Plaintiff had stated that after the demise of the said muthammal, the property devolved upon her son Subramni, who had validly executed a settlement deed dated 03.07.2017 in favour of the defendant. Pursuant thereto. The defendant entered into a lawful possession and has since been in continuously cultivating and enjoying the suit property. Further the defendant had denied his interference or intimidation made by the plaintiff, Per Contra had stated that the plaintiff and his men only had attempted to interfere with the defendant's peaceful possession on 14.01.2020 and the same was resisted with the help of the neighbours. Further stated that the plaintiff has not approached this court with clean hands and had suppressed the material documents obtained through earlier decree. Therefore this petition is liable to be dismissed.

3. Gist of the Counter claim:

The defendant had filed the written statement to be treated as the counter claim. The defendant had stated that she had acquired the lawful title to the suit property under the registered settlement deed dated 03.07.2017 executed by her husband subramani who had derived the title through his mother muthammal. The defendant

further pleads that she has been in continuous and lawful possession of the suit property from the date of the settlement. Further the defendant stated that the earlier decree in OS.No.81/1995 was obtained by suppressing the material facts and documents particularly the recitals contained in the sale deed of 1996 and 2004 acknowledging the suit property as belonging to Raju. Hence the defendants seek appropriate declaration that the plaintiff cannot claim any right on the basis of the earlier decree. Therefore the defendant prays that the suit to be dismissed with costs and allowing the counter claim and to declare that the defendant's title over the suit property under the settlement deed dated 3.7.2017 and declare that the plaintiff have no manner of right or possession over the suit property and grant the decree of permanent injunction restraining the plaintiff and his men from in any manner interfering the peaceful possession and enjoyment of the suit property.

4. Gist of the Reply Statement to the Counter Claim:

1. The Plaintiff denies all the other averments contained in the written statement and counter claim except those specifically admitted it is contended that all the facts pleaded in the plaint that have already been substantiated by documentary evidence and are supported by binding judicial decisions rendered in the earlier rounds of litigation

2. The plaintiff submit that the judgement and decree passed in OS.No. 81/1995 declaring his title by adverse possession and granting permanent injunction have attained finality. The attempt made by the defendant to question the validity of the said decree is wholly barred in law, as an identical challenge had already been made

by the defendant's mother in law in OS.No.2/2005 which was dismissed after full fledged trial, and the said dismissal was confirmed in AS.No.13/2008. Therefore the defendant, claiming only through her husband and ultimately through muthammal, cannot reagitate the very same issue under the guise of a counter claim.

3. Further the plaintiff stated that in OS.No.81/1995 four witnesses were examined on behalf of the plaintiff and subjected to cross examination by the 1st defendant therein. The 2nd defendant namely Subramani remained exparte and did not aduce any evidence, After appreciating both the oral and documentary evidence, the court decreed the suit in favour of the plintiff on 29.9.2000. Consequently, the defendant who claims title only under the settlement deed executed by the said Subramani cannot challenge the correctness of the decree indirectly.

4. Further, placing reliance upon the sale deeds dated 04-03-1996 and 5-4-2004 of the defendant, the plaintiff contends that the sale deed dated 04-03-1996 was executed during the pendency of the O.S.No.81/1995 and prior to the decree. At that stage, the plaintiff had not yet obtained any declaration of title over the suit property. Hence, the boundary recitals contained in those sale deeds cannot override the subsequent judicial determination declaring the plaintiff's title. The subsequent sale deed dated 5-4-2004 merely repeated the earlier boundary description and therefore has no evidentiary value against the binding decree.

5. The plaintiff further submitted that the suit property involved in O.S.81/1995 and the property involved in E.A.19/2003 are one and the same. The execution proceedings culminated in an order directing restoration of possession to the plaintiff,

pursuant to which possession was delivered through Court Amin. The appeal preferred by Muthamal in A.S.14/2008 was dismissed, thereby confirming the order restoring possession. Thus, the plaintiff's lawful possession stands recognized by competent judicial orders, whereas it has already been judicially determined that Muthammal was not in lawful possession.

6. The plaintiff further contends that even during the lifetime of Muthammal, she unsuccessfully challenged the decree in O.S.No.81/1995. Having failed in O.S. No.2/2005 and A.S.No.13/2008, neither her legal heir Subramani nor the present defendant claiming under the Settlement Deed dated 03.07.2017 can reopen issues that have already attained finality. Since the very source of title claimed by the defendant has already been negated by the competent civil courts, the Settlement Deed executed by Subramani in favour of the defendant conveys no valid title.

7. The plaintiff specifically denies the allegation that the defendant came to know of the earlier proceedings only after institution of the present suit. According to the plaintiff, the defendant has deliberately made false statements to secure an unlawful advantage. The allegation that the plaintiff interfered with the defendant's possession on 14.01.2020 is categorically denied as false and invented solely for the purpose of creating a cause of action for the counter claim. The plaintiff asserts that no genuine cause of action exists in favour of the defendant.

8. Accordingly, the plaintiff prays that the counter claim be dismissed with exemplary compensatory costs. The plaintiff further seeks an award of compensatory costs of Rs.1,00,000/- against the defendant for having instituted a frivolous and

vexatious counter claim by re-agitating issues that have already been finally adjudicated by competent civil courts.

5. Issues framed under Order XIV Rule 1 of the CPC by the learned predecessor:

1. Whether the registered Gift Settlement Deed dated 03.07.2017, vide Document No.477/2017, executed by the defendant's husband in favour of the defendant is valid?
2. Whether the Judgment and Decree passed by this Court in O.S. No.81/1995 is valid?
3. Whether the delivery of possession passed in E.A. No.19 of 2003 in E.P. No.23 of 2001, which was confirmed in A.S.No.14 of 2008, is binding upon the defendant?
4. Whether the Judgment and Decree passed in O.S. No.2 of 2005, as confirmed in A.S. No.13 of 2008, are binding upon the defendant?
5. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?
6. Whether the defendant is entitled to the reliefs of declaration and permanent injunction?
7. Whether the defendant is entitled to the other reliefs claimed in the counter claim?
8. To what other reliefs and costs are the parties entitled?

6. Evidences and Documents:

1. On the side of the Plaintiff, the plaintiff was examined as PW1 and Ex.A1 to Ex.A12 were marked through him and Thiru.Suresh, was examined as PW2 and no documents have been marked.

2. On the side of the Defendant, the defendant was examined as WD.1 and Ex.B1 to Ex.B3 were marked and one Tmt.Albona was examined as DW2 and

Thiru.Puttusamy was examined as DW3 and no documents have been marked and thereby the evidence in both side closed.

7. Evidences of Witnesses:

7.1. PW1 reiterated the plaint averments and deposed that he had perfected title over the suit property by virtue of the decree passed in O.S.No.81/1995 and that possession was subsequently restored to him through Court pursuant to the order passed in E.A.No.19/2003. He further deposed that the defendant derived no valid title under the Settlement Deed dated 03.07.2017, since the executant himself had no subsisting right over the property.

7.2. During cross-examination, PW1 admitted that both he and Raju had purchased their respective properties on 26.04.1982 under separate sale deeds and that both had obtained possession on the date of purchase. He also admitted that he had sold his adjacent southern property to one Gauhar Jan under a sale deed dated 04.03.1996 and that the boundary recitals therein referred to Raju's property on the northern side. However, he denied that such recital disproved his possession over the suit property and explained that the sale deed preceded the decree passed in O.S.No.81/1995. He consistently denied the suggestion that Raju had remained in possession of the suit property or that the decree in O.S.No.81/1995 had been obtained by fraud or suppression of facts. He also denied the suggestion that the defendant was in possession of the suit property or that the counter claim was maintainable.

7.3. PW2 supported the plaintiff's case regarding the plaintiff's possession and enjoyment of the suit property. No documentary evidence was marked through him and nothing substantial was elicited in his evidence to materially alter the plaintiff's case.

7.4. DW1 reiterated the averments contained in the written statement and counter claim. She deposed that the suit property originally belonged to Raju, thereafter devolved upon her mother-in-law Muthammal through Court proceedings, and ultimately came to her under the registered Settlement Deed dated 03.07.2017 executed by her husband. She relied upon the Settlement Deed, kist receipts and guideline value extract in support of her claim.

7.5. During cross-examination, however, DW1 admitted that she had no personal knowledge about the earlier litigation in O.S.No.81/1995, O.S.No.2/2005, A.S.No.13/2008, E.A.No.19/2003 or A.S.No.14/2008. She repeatedly stated that she was unaware of the earlier proceedings and the orders passed therein. She further admitted that her claim was solely based upon the Settlement Deed executed by her husband, who in turn claimed through his mother Muthammal. She also admitted that Muthammal had obtained title only through execution proceedings arising out of O.S.No.291/1998. Thus, her evidence establishes that her claim is entirely derivative in nature and not based upon any independent source of title.

7.6. DW2 claimed to have worked as an agricultural labourer in the defendant's land and supported the defendant's plea of possession. However, in cross-examination, she

admitted that she resided about 10 kilometres away from the suit property, did not know the boundaries of the suit property, did not know how the defendant or her predecessors acquired title, had never seen the defendant's mother-in-law, and had seen the plaintiff for the first time only in Court. Her evidence disclosed that she possessed no personal knowledge regarding the title or the earlier litigations and was only a casual agricultural labourer. Consequently, her testimony has little evidentiary value on the question of title or continuous possession.

7.7. DW3 deposed that Raju had cultivated the suit property for about five years after purchase and thereafter the land remained uncultivated. He also supported the defendant's case regarding possession.

7.8. Nevertheless, during cross-examination he admitted that he had no personal knowledge about the earlier civil proceedings between the parties, including O.S.No.81/1995 and the subsequent litigations. He further admitted that the plaintiff had installed a borewell in the suit property about five or six years earlier and that neither he nor the defendant nor her family members had objected to the same. He also admitted that he came to know about the earlier litigations only through the defendant's husband. His evidence therefore rests largely upon hearsay insofar as the previous litigations are concerned, and materially weakens the defendant's plea regarding exclusive possession.

8. Discussion and Findings:-

Having meticulously scrutinized the averments in the plaint and written statement, along with the oral testimonies and the documentary evidence marked on either side, this Court proceeds to consider the issues framed as follows:

9. Issue No.1: Whether the registered Gift Settlement Deed dated 03.07.2017, vide Document No.477/2017, executed by the defendant's husband in favour of the defendant is valid?

9.1. Both side Heard. This Court had cautiously scrutinized the Plaint, Written statement, and the documents marked before this court.

9.2. This issue goes to the very root of the controversy, the plaintiff seeks declaration that the registered settlement deed dated 03.07.2017 executed by subramani in favour of his wife, the defendant in null and void and not binding upon him, whereas the defendant by way of counter claim had prayed for declaration that the very same settlement deed is valid and confers absolute title upon the defendant. Therefore, it is necessary to adjudicate the validity of the settlement deed.

9.3. In the case in hand, the defendant does not claim any independant title, her own pleadings show that she derives title only through her husband subramani, who claims it through his mother muthammal. Therefore, the validity of EX.B1, Ex.A12 depends entirely upon the validity of the title claimed by the said Muthammal and thereafter by Subramani.

9.4. According to the plaintiff the litigation commences from the OS.No.81/1995. The plaintiff had stated that the suit property was declared to have vested in him by

adverse possession by virtue of the Judgment and Decree dated 29.09.2000 which is marked as Ex.A1 and ExA2. Subsequently the said muthammal had challenged the said decree by instituting OS.No.2/2005, which was culminated in dismissal order EX.A3 and Ex.A4. Thereafter the appeal against the said decree in AS.No.13/2008 was also dismissed under EX.A5. Likewise, though the said Muthammal had earlier obtained an executed sale deed in execution proceedings, the Execution court, in EA.No.19/2003 held that such Court sale deed and delivery of Possession were unsustainable and restored the possession to the Plaintiff. The said order was produced as Ex.A6 and the Amin's delivery receipt was marked as Ex.A7. Thereby the Appeal preferred by the said Muthammal in AS.No.14/2008 was also dismissed under EX.A8.

9.5. Therefore, before the execution of the settlement deed in the year 2017, every judicial proceeding initiated by the said Muthammal was culminated against her. The above said Ex.A1 to Ex.A6 are the certified copies of the Judicial proceedings and carry the presumption of correctness under Indian Evidence Act. In such situation the defendant has neither challenged the genuineness of the above said documents nor produced any subsequent judgment by setting aside them.

9.6. The learned counsel appearing for the defendant had contended that the plaintiff obtained the decree in OS.No.81/1995 by suppressing material facts and that the said Raju had actually taken possession pursuant to the sale deed dated 26.04.1982. In support of the contention, reliance has been placed upon certain admissions elicited

by PW1 during cross examination and upon the boundary recital contained in the sale deeds dated 04.03.1996 and 05.04.2004.

9.7. On careful reading of the entire cross examination of PW1 would reveal that the defence had relied only upon isolated answer while ignoring the remaining evidence. PW1 admitted that:

"26.04.1982-ம் தேதியில் ஆவண எண்.211/1982-ன் படி நானும் அதே தேதியில் ஆவண எண்.212/1982-ன் படி ராஜுவும் கிரயம் பெற்றோம் என்றால் சரிதான்."

He further answered:

"அன்றைய தினம் இருவருமே அந்த சொத்துக்களை பொறுத்து சுவாதீனமும் பெற்றுக்கொண்டோம் என்றால் சரிதான்."

The defendant had relied heavily upon the above said answer to contend that the plaintiff has admitted Raju's possession.

9.8. However the evidence cannot be appreciated by reading one sentence in isolation. It is the cardinal rule governing the appreciation of the evidence that the testimony of the witnesses had to be read as a whole. Thereafter, PW1 categorically denied the very suggestion put by the defendant. He specifically deposed that:

"ராஜு சுவாதீனத்திற்கு வரவில்லை என்று கூறியிருப்பது தவறு என்றும் அதை வைத்து நான் வழக்கு தாக்கல் செய்தது தவறு என்றால் சரியல்ல."

Again he denied:

"ராஜுவும் அதன்தொடர்ச்சியாக இந்த பிரதிவாதிகள் சுவாதீனத்தில் இருந்து வருகிறார்கள் என்றால் சரியல்ல."

9.9. Thus, PW1 had never accepted that the defendant or her predecessors continued in possession. His evidence read in entirety, consistently support the earlier judicial findings rendered in OS.No.81/1995 and the subsequent execution proceedings. The defendant had also attempted to rely upon the sale deed executed by PW1 in favour of Gauhar jan dated 04.03.1996, wherein the northern boundary has been described as 'Raju's property'. According to the defendant, if the the plaintiff was really in possession, he would have described the northern boundary as his own property.

9.10. On a close scrutiny to the material documents and the evidences produced before this court, it is seen that firstly, the said sale deed came into existence during the pendancy of the suit in OS.No.81/1995 and much prior to the decree dated 29.09.2000. The Plaintiff had not obtained any judicial declaration by that point of time. A boundary recital contained in a private conveyance executed pending litigation cannot prevail over a subsequent judicial declaration of the title rendered after a full fledged trial.

9.11. Secondly, the subsequent sale deed dated 05.04.2004 merely reproduced the earlier boundary recital. Such reproduction cannot displace a decree of a competent Civil Court which has attained finality.

9.12. Thirdly the boundary recitals are only descriptive in nature. It is well settled that the boundary descriptions do not by themselves confer or extinguish title. They

constitute one item of evidence to be appreciated along with the entire body if the evidence. The defendant cannot override judicial pronouncements inter parts.

9.13. On going through the evidence of the Defendant, DW1 has projected herself as the absolute owner of the suit property. But during her cross examination DW1 had admittedly repeatedly admitted that she had absolutely no personal knowledge regarding the earlier proceedings.

She had deposed that

"அசல் வழக்கு எண்.81/1995 தாக்கல் செய்து... தீர்ப்பு பெற்றுள்ளார் என்ற விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

further admitted that

"அசல் வழக்கு எண்.81/1995 வழக்கின் தீர்ப்பு செல்லத்தக்கதல்ல என்று நான் எதிர்வழக்குரையில் வழக்கு குறித்து எதுவும் தெரியாமல் எப்படி சொல்கிறேன் என்றால் அது பற்றி எனக்கு எதுவும் தெரியாது."

Further when DW1 was questioned regarding EA.No.19 of 2003 she had admitted that

"EA.19/2003... கிரைய பத்திரமும் சுவாதீனமும் செல்லாது என்றும் மனு தாக்கல் செய்திருந்தாரா என்றால் எனக்கு தெரியாது."

She further stated that

"வா.சா.ஆ.6-ல் கண்டுள்ள சங்கதிகள் எனக்கு தெரியுமா என்றால் தெரியாது."

Further DW1 had admitted her ignorance regarding the appellate proceedings in AS.No.14/2008.

9.14. There as admissions completely demolish the foundation of the counter claim, A person who seeks declaration of title is expected to establish the chain of title with cogent evidence. But in this case DW1, admits her ignorance regarding every adjudication affecting the very source of her title. Such evidence cannot dislodge the certified judicial records marked by the plaintiff.

9.15. Further DW1 had admitted that her title flows only through her husband

"எனது கணவர் சுப்பிரமணி எனக்கு... தானசெட்டில்மெண்ட் பத்திரம் எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

She further admitted:

"இந்த சொத்து எனது மாமியாருக்கு பாத்தியப்பட்டது... பின்னிட்டு ஒரே வாரிசான எனது கணவருக்கு பாத்தியப்பட்டது..."

9.16. Therefore once the title of the said Muthammal stood negatived by the competent Courts, the husband of the defendant had inherited no enforceable title capable of being settled in favour of the defendant.

9.17. Further DW2 in her cross examination had adduced that she did not know how the defendant had acquired title, did not knew the boundaries of the suit property, had never seen Muthammal and had seen the plaintiff only in court. This she is to be treated as only a formal witness about the agricultural operation and not about title.

9.18. Further DW3 in her cross examination had admitted that he had no personal knowledge about the earlier litigations and knew about them only through Subramani, Further DW3 had admitted that when the plaintiff had dug a borewell in

the suit property, neither the defendant nor her family members objected the same. He deposed:

"வெள்ளக்குட்டி தாவா பூமியில் ஆழ்துளை கிணறு அமைத்தபோது நானோ, பிரதிவாதியோ, பிரதிவாதியின் குடும்பத்தினரோ... ஆட்சேபனை செய்யவில்லை என்றால் சரிதான்."

This admission probabalises the plaintiff's possession rather than of the defendant.

9.19. It is pertinent to note that the defendant had not produced any single document demonstrating that after the dismissal of OS.No.2/2005 and AS.13/2008, the said Muthammal reacquired the title or that the said Subramani independantly acquired the title. Ex.B2 is Kist receipts and Ex.B3 is the guideline value extract. Nether document is a document of title. It is trite law that revenue records and payment of land revenue neither create nor extinguish title. They are only fiscal documents maintained for revenue purposes. Therefore, Ex.B2 and Ex.B3 does not improve the defendant's case.

9.20. At the outset, it is necessary to bear in mind the settled proposition of law that a settlement deed by itself does not create title. It merely transfers whatever right, title or interest the settlor already possesses. If the settlor himself has no legally enforceable title, the transferee acquires nothing under such conveyance. The principle embodied in the maxim "Nemo dat quod non habet" (no person can convey a better title than what he himself possesses) squarely governs the present case.

9.21. On strictly scrutinizing, this Court finds that the defendant has utterly failed to establish that the executant of Ex.B1 possessed any substituting title on 03.07.2017. On contrary, the documentary evidence produced by the plaintiff establishes that the very foundation of the defendant's title had already judicially rejected much prior to the execution of the settlement deed. Consequently, EX.B1 and Ex.A12 is nothing but the derivative document executed by a person who himself possessed no transferable interest in the suit property. Such document cannot create any legal right in favour of the defendant and cannot affect the rights already declared in favour of the plaintiff by the competent civil courts.

10. Findings:

Accordingly this court holds that the settlement deed dated 03.07.2017 registered as Doc.No.477/2017 is invalid, inoperative and not binding upon the plaintiff.

11. Issue No.2: Whether the Judgment and Decree passed by this Court in O.S. No.81/1995 is valid?

11.1. In this case the defence as well as the counter claim rests upon the contention that the Judgment and Decree passed in OS.No.81/1995 is not valid and therefore it is not binding upon the defendant. The Plaintiff, on the other hand, contended that the said Judgment attained finality and that every subsequent litigation challenging the same was ended against the predecessors - in – title of the defendant. Therefore the defendant who claims only under them cannot once again reopen the very same issue.

11.2. At the outset, this court is of the considered view that the validity of the decree passed by the competent Civil Court cannot be questioned in Collateral proceedings unless the degree is shown to be nullity or has been set a side by a competent court in the manner known to law Judicial Discipline requires that a decree which has attained finality must be given due sancity and cannot be ignored merely because one of the parties subsequently alleges that it was wrongly decided.

11.3. In this case the Plaintiff had prdocued the certified copies of the Judgment and the decree in OS.81/1995, which have been marked as Ex.B1 and Ex.B2. Those documents clearly goes to show that after the full fledged trial, this Court declared the plaintiff's right over the suit property and granted consequential permanent injunction. But the defendant had not produced any document to show that the above said decree has been reversed, modified or set aside by appellate court.

11.4. Per Contra, the evidence on record establishes that the decree was subsequently challenged by none other than Muthammal, through whom the present defendant traces her title. He certified copies of the judgment and decree in OS.No.2/2005 have been marked as Ex.A3 and Ex.A4. The certified copy of the appellate decree in AS.13/2008 has been marked as Ex.A5. Those documents unmistakably establish that Muthammal sought a declaration that the decree in OS.81/1995 was invalid and not binding upon her. The said suit was dismissed after contest and the dismissal was affirmed by the First Appellate Court.

11.5. Therefore, the very issue which the defendant now seeks to raise by way of counter claim has already been directly and substantially adjudicated between the plaintiff and the predecessor – in - interest of the defendant.

11.6. The defendant has attempted to contend that the decree in OS.No.81/1995 has been obtained by suppression of material facts, particularly with reference to the sale deeds dated 04.03.1996 and 05.04.2004 and the alleged possession of Raju.

11.7. Firstly, fraud is serious allegation. A party pleading fraud must specifically plead and strictly prove every ingredient constituting fraud. More importantly, the defendant herself has admitted in cross examination that she has absolutely no personal knowledge about the said proceedings.

DW1 categorically admitted:

"ராஜு என்பவரின் பெயரிலும், எனது கணவரின் பெயரிலும் வாதி சத்தியமங்கலம் மாவட்ட உரிமையியல் நீதிமன்றத்தில் அசல் வழக்கு எண்.81/1995 தாக்கல் செய்து மேற்படி வழக்கில் இருதரப்பு விசாரணைக்கு பின்னிட்டு 29.09.2000-ம் தேதியில் தீர்ப்பு பெற்றுள்ளார் என்ற விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

Again she admitted:

"அசல் வழக்கு எண்.81/1995 வழக்கின் தீர்ப்பு செல்லத்தக்கதல்ல என்று நான் எதிர் வழக்குரையில் வழக்கு குறித்து எதுவும் தெரியாமல் எப்படி சொல்கிறேன் என்றால் அது பற்றி எனக்கு எதுவும் தெரியாது."

These admissions completely undermine the defendant's plea that the earlier decree was obtained fraudulently. A person who has no knowledge whatsoever about the

earlier proceedings cannot be permitted to challenge the correctness of a decree merely on assumptions or hearsay.

11.08. It is further significant that DW1 admitted that her entire claim flows only through her husband Subramani.

She deposed:

"எனது கணவர் சுப்பிரமணி எனக்கு... தானசெட்டில்மெண்ட் பத்திரம் எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

She further admitted:

"இந்த சொத்து எனது மாமியாருக்கு பாத்தியப்பட்டது; அவருக்கு பின்னிட்டு ஒரே வாரிசான எனது கணவருக்கு பாத்தியப்பட்டது என்று எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

Thus, the defendant is admittedly not an independent claimant. She derives her title solely through Muthammal and Subramani.

It is well settled that a successor-in-interest or a person claiming under a party to a former litigation stands on no better footing than his predecessor. A transferee or legal representative is bound by the decree passed against his predecessor unless the decree is set aside in accordance with law.

The plaintiff's evidence also supports this position.

11.9. PW1 has consistently deposed that O.S.No.81/1995 was decided only after appreciation of oral and documentary evidence. During cross-examination he denied every suggestion that the decree had been obtained by fraud. When it was suggested to him that he had obtained the decree by suppressing facts, he answered:

"அ.வ.எண்.81/1995 வழக்கில் சுவாதீனத்தில் இல்லாமல் சுவாதீனத்தில் இருப்பதாக தீர்ப்பு பெற்றது தவறானது என்றால் சரியல்ல."

Again he denied:

"நான் தூய்மையான கரங்களுடன் கீழமை நீதிமன்றத்திலும் இந்த நீதிமன்றத்திலும் வழக்கு தாக்கல் செய்யவில்லை என்றால் சரியல்ல."

11.10. These answers remained unshaken. Much emphasis was placed by the defendant upon PW1's admission that both he and Raju obtained possession on the date of their respective purchases. However, the Court cannot appreciate a single answer in isolation while ignoring the remaining evidence and the binding judicial findings. Immediately thereafter PW1 denied that Raju continued in possession and categorically denied every suggestion that the defendant or her predecessors remained in possession. He stated:

"ராஜுவும் அதன்தொடர்ச்சியாக இந்த பிரதிவாதிகள் சுவாதீனத்தில் இருந்து வருகிறார்கள் என்றால் சரியல்ல."

Therefore, the evidence of PW1, read as a whole, does not support the defendant's plea.

11.11. Another important circumstance which cannot be ignored is that Muthammal herself instituted O.S.No.2/2005 seeking substantially the very same relief which the defendant now seeks through the counter claim. The suit was dismissed. The appeal also failed. Once the competent Civil Court and the First Appellate Court have rejected the challenge to O.S.No.81/1995, the present defendant cannot be permitted

to reopen the identical controversy merely because she claims under a subsequent settlement deed.

11.12. The principle embodied under Section 11 of the Code of Civil Procedure squarely applies. The matter directly and substantially in issue had already been adjudicated between the plaintiff and the predecessor-in-interest of the defendant by Courts of competent jurisdiction. The present counter claim also attracts the principle of constructive res judicata. Every ground which was available to Muthammal to challenge the decree ought to have been urged in the earlier proceedings. After suffering dismissal in O.S.No.2/2005 and A.S.No.13/2008, neither Muthammal nor anyone claiming through her can reagitate the same issue in another proceeding.

11.13. The Hon'ble Supreme Court has consistently held that the doctrine of res judicata is founded upon public policy and that there must be finality to litigation. A party cannot be permitted to repeatedly reopen issues that have already been finally adjudicated.

11.14. The evidence of DW2 and DW3 also does not assist the defendant. DW2 admittedly stated that she did not know how the defendant acquired title, did not know the earlier litigations and had no knowledge regarding the origin of title. DW3 admitted that he came to know about the previous litigations only through Subramani and had no direct knowledge of those proceedings. His evidence is therefore purely hearsay on the question of title. Thus, none of the defence witnesses has produced

any legally admissible evidence capable of displacing the binding effect of Ex.A1 and Ex.A2.

11.15. It is also pertinent to note that no appeal, review or any other proceedings have been produced before this Court to show that the decree in O.S.No.81/1995 has ever been set aside. Unless such decree is annulled by a competent Court, it continues to remain valid, operative and binding. Consequently, this Court holds that the defendant, who claims only through Muthammal and Subramani, is equally bound by the Judgment and Decree passed in O.S.No.81 of 1995.

12. Findings:

Accordingly, the challenge raised in the written statement and counter claim questioning the validity of the decree in O.S.No.81/1995 is wholly misconceived, barred by the principles of res judicata and constructive res judicata, and is liable to be rejected. This issue is answered in favour of the plaintiff.

13. Issue No.3: Whether the delivery of possession passed in E.A. No.19/2003 in E.P. No.23/2001, which was confirmed in A.S.No.14/2008, is binding upon the defendant?

13.1. This issue is closely interconnected with Issue Nos.1 and 2. The determination of this issue is of considerable significance because the plaintiff claims that he is in lawful possession of the suit property by virtue of the order passed in E.A.No.19/2003 and the subsequent delivery of possession effected through the Court Amin. On the contrary, the defendant contends that such delivery of possession is not binding upon her and that she is in possession by virtue of the Settlement Deed dated 03.07.2017.

13.2. The burden lies upon the defendant to establish that the order passed in E.A.No.19/2003 and the consequential delivery of possession do not bind her. Mere denial, however, is not sufficient. Since the plaintiff has produced certified copies of the judicial proceedings, the defendant has to establish by acceptable evidence that those proceedings are either nonest in law or otherwise not binding upon her.

13.3. The plaintiff has produced the certified copy of the order passed in E.A.No.19/2003 as Ex.A6. The Amin's Return evidencing actual delivery of possession to the plaintiff has been marked as Ex.A7. The certified copy of the appellate decree confirming the said order in A.S.No.14/2008 has been marked as Ex.A8.

13.4. A careful reading of Ex.A6 discloses that the Executing Court, after considering the rival contentions, held that the Court-executed Sale Deed obtained by Muthammal pursuant to E.P.No.23/2001 and the consequential delivery of possession were not legally sustainable. Consequently, the Court directed restoration of possession to the present plaintiff. Ex.A7 further establishes that in execution of the said order, possession of the suit property was in fact restored to the plaintiff through the Court Amin. Thereafter, the appellate Court, by judgment in A.S.No.14 of 2008, confirmed the order of the Executing Court. Thus, the judicial determination regarding possession has attained finality.

13.5. The defendant seeks to ignore the said proceedings on the ground that she was not a party to them. This contention cannot be accepted. Admittedly, the defendant

derives her title only through her husband Subramani, who in turn claims through his mother Muthammal. The very person whose possession was held to be unsustainable in E.A.No.19/2003 is the predecessor-in-interest of the present defendant. Therefore, the defendant cannot claim a status superior to that of her predecessor.

13.6. It is a settled proposition of law that a transferee or successor-in-interest is bound by all adjudications affecting the title and possession of his predecessor. Once the predecessor has suffered an adverse adjudication, every person claiming through such predecessor is equally bound by the result. The admissions elicited from DW1 during cross-examination assume considerable significance. She admitted that the property originally came to her mother-in-law through Court proceedings.

She deposed:

"எனது மாமியாருக்கு இந்த சொத்து சத்தியமங்கலம் மாவட்ட நடுவர் நீதிமன்றத்தில் EP No.23/2001-ன் உத்திரவின் மூலமாக எழுதிக் கொடுக்கப்பட்ட சொத்து என்றால் ஆமாம்."

She further admitted:

"மேற்படி கிரையம் பெற்ற சொத்தை EA 124/2002 மூலம் நீதிமன்ற அதிகாரி எனது மாமியார் முத்தம்மாளுக்கு சுவாதீனம் செய்து கொடுக்கப்பட்டது என்றால் சரிதான்."

Thus, DW1 herself admits that the very source of title claimed by her traces back to the execution proceedings initiated by Muthammal.

13.7. However, when she was confronted with the subsequent proceedings in E.A.No.19/2003, she repeatedly pleaded ignorance.

She stated:

"மேற்படி சுவாதீனம் கொடுக்கப்பட்ட பின்பு இந்த வழக்கின் வாதி EA 19/2003-ன் மூலம் நீதிமன்றம் மூலம் எழுதிக்கொடுக்கப்பட்ட கிரைய பத்திரமும் சுவாதீனமும் செல்லாது என்றும் மனு தாக்கல் செய்திருந்தாரா என்றால் எனக்கு தெரியாது."

Again she admitted:

"வா.சா.ஆ.6-ல் கண்டுள்ள சங்கதிகள் எனக்கு தெரியுமா என்றால் தெரியாது."

She further answered:

"EA.No.19/2003 என்ற எண்ணில் ஏற்கனவே நீதிமன்ற அதிகாரி மூலம் எனது மாமியார் முத்தம்மாளுக்கு கொடுக்கப்பட்ட சுவாதீனத்தை ரத்து செய்து மீண்டும் இந்த வழக்கின் வாதிக்கு மறு சுவாதீனம் செய்து கொடுக்க உத்திரவு ஏற்பட்டு நீதிமன்ற அதிகாரி மூலம் மறு சுவாதீனம் செய்து கொடுக்கப்பட்டுள்ளது என்று சொன்னால் அது பற்றி தெரியாது."

She also admitted:

"மேற்படி EA 19/2003 மனுவில் ஏற்பட்ட உத்திரவை எதிர்த்து... A.S.No.14/2008... 22.08.2008 தேதியில் தள்ளுபடி செய்யப்பட்ட விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

13.8. These admissions clearly demonstrate that the defendant has no personal knowledge whatsoever regarding the proceedings under which possession was restored to the plaintiff. Mere ignorance of judicial proceedings cannot render those proceedings non-binding. On the contrary, the certified judicial records produced by the plaintiff continue to enjoy the presumption of correctness.

13.9. Equally important is the evidence of PW1. PW1 consistently deposed that after the order in E.A.No.19/2003, possession was restored to him through Court process

and that he has been in possession ever since. During cross-examination, it was specifically suggested to him that the delivery of possession obtained in E.A.No.19/2003 was not valid. PW1 emphatically denied the suggestion and stated:

"நான் தவறுதலாக பெற்ற தீர்ப்பின்படி இ.ம.எண்.19/2003ல் சுவாதினம் பெற்றதும் நிலைக்கத்தக்கதல்ல என்றால் சரியல்ல."

Nothing worthwhile has been elicited in his cross-examination to discredit the fact that Court delivery was actually effected.

13.10. The oral evidence of DW2 is of no assistance to the defendant. She admitted that she had absolutely no knowledge regarding the manner in which the defendant acquired title or possession. Therefore, her testimony cannot displace the judicial records produced by the plaintiff.

13.11. Likewise, DW3 also admitted that he had no direct knowledge about the earlier litigations and knew about them only through Subramani. His evidence regarding title and possession is therefore only hearsay. On the contrary, an important admission was elicited from DW3.

He deposed:

"வெள்ளக்குட்டி தாவா பூமியில் ஆழ்துளை கிணறு அமைத்தபோது நானோ, பிரதிவாதியோ, பிரதிவாதியின் குடும்பத்தினரோ, வேறு நபர்களோ ஆட்சேபனை செய்யவில்லை என்றால் சரிதான்."

13.12. This admission assumes significance. If, as contended by the defendant, she had been in exclusive possession pursuant to the Settlement Deed, the normal human

conduct would have been to object immediately when the plaintiff dug a borewell in the suit property. The absence of any objection probabilises the plaintiff's version that he continued to remain in possession after Court delivery.

13.13. Another important aspect deserves mention. The defendant has not produced any order setting aside Ex.A6 or Ex.A8. Neither has she initiated any independent proceedings seeking cancellation of the order restoring possession. In the absence of any such proceedings, the order passed in E.A.No.19/2003, as confirmed in A.S.No.14/2008, continues to remain operative and binding.

13.14. The defendant cannot be permitted to circumvent binding judicial orders by simply pleading that she subsequently obtained a Settlement Deed. The settlement deed itself came into existence only on 03.07.2017, nearly nine years after dismissal of A.S.No.14/2008. Once Muthammal's possession stood judicially declared to be unsustainable and possession had already been restored to the plaintiff through Court process, neither Muthammal nor her son Subramani retained any lawful possession capable of being conveyed to the defendant.

13.15. The Hon'ble Supreme Court has consistently held that an order passed by an Executing Court restoring possession pursuant to a decree remains binding unless set aside in appropriate proceedings. A person claiming under the judgment-debtor or decree-holder is equally bound by such execution proceedings. Applying the above principles, this Court has no hesitation in holding that the defendant, being only a successor-in-interest to Muthammal and Subramani, is fully bound by the order

passed in E.A.No.19/2003 and the consequential delivery of possession effected through Court.

14.Findings:

Accordingly, the contention that the defendant is not bound by the execution proceedings cannot be accepted. Issue No.3 is answered in favour of the plaintiff.

15. Issue No.4: Whether the Judgment and Decree passed in O.S.No.2/2005, as confirmed in A.S.No.13/2008, are binding upon the defendant?

15.1. This issue is intrinsically connected with Issues Nos.1 to 3. While Issue No.2 relates to the validity of the decree passed in O.S.No.81/1995, the present issue concerns the legal effect of the subsequent proceedings initiated by the defendant's predecessor-in-title, namely Muthammal, challenging the very same decree. The determination of this issue is of considerable importance because the defendant, by way of the present counter claim, has substantially sought the very same relief which had already been negated in the earlier proceedings.

15.2. The plaintiff has produced the certified copies of the decree and judgment passed in O.S.No.2/2005, which have been marked as Ex.A3 and Ex.A4, and the certified copy of the appellate decree in A.S.No.13/2008, which has been marked as Ex.A5. These documents clearly establish that Muthammal, the mother of Subramani and mother-in-law of the present defendant, instituted O.S.No.2/2005 challenging the decree passed in O.S.No.81/1995 and sought a declaration that the said decree was invalid and not binding upon her. After a full-fledged trial, the suit came to be

dismissed on 22.11.2007. The appeal preferred there against in A.S.No.13/2008 was also dismissed on 22.08.2008, thereby affirming the findings of the Trial Court.

15.3. Thus, the judicial records unmistakably disclose that the validity of the decree in O.S.No.81/1995 had already been directly and substantially put in issue between the plaintiff and the predecessor-in-interest of the present defendant, and the challenge ended in favour of the plaintiff. The defendant, however, has attempted to reagitate the identical issue by pleading in the written statement and by filing a counter claim seeking virtually the same declaration. The principal contention of the defendant is that the decree in O.S.No.81/1995 had been obtained by suppressing material facts and therefore cannot bind her. This contention, in the considered opinion of this Court, is legally unsustainable.

15.4. It is an admitted fact that the defendant claims title only under the Settlement Deed dated 03.07.2017 executed by her husband Subramani. Subramani, in turn, claimed title only through his mother Muthammal. Therefore, the defendant does not possess any independent source of title apart from that of Muthammal. During cross-examination, DW1 categorically admitted:

"இந்த சொத்து எனது மாமியாருக்கு பாத்தியப்பட்டது; அவருக்கு பின்னிட்டு ஒரே வாரிசான எனது கணவருக்கு பாத்தியப்பட்டது என்று எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

This admission clearly establishes that the defendant is only a successor-in-interest claiming under Muthammal. More importantly, DW1 admitted that she had

absolutely no personal knowledge regarding O.S.No.2/2005 or the appellate proceedings arising therefrom.

She deposed:

"எனது மாமியார் சத்தியமங்கலம் மாவட்ட உரிமையியல் நடுவர் நீதிமன்றத்தில் அ.வ.எண்.2/2005 என்ற எண்ணில் இந்த வழக்கின் வாதிக்கு எதிராக அ.வ.எண்.81/1995 என்ற எண்ணில் பிறப்பிக்கப்பட்ட தீர்ப்பாணை தள்ளுபடி செய்யப்பட்டு தீர்ப்பு ஏற்பட்ட விவரமும்... A.S.No.13/2008 வழக்கு... தள்ளுபடி செய்யப்பட்ட விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

15.5. The above admission is of considerable significance. Though the defendant has sought to challenge the earlier decree, she candidly admits that she has no knowledge whatsoever regarding the proceedings in O.S.No.2/2005 or A.S.No.13/2008. Therefore, the challenge raised by her is not based on personal knowledge or any legally admissible evidence but only upon assumptions.

15.6. On the other hand, the plaintiff has specifically pleaded as well as deposed that Muthammal had already exhausted her remedies before the competent Civil Court and the First Appellate Court. PW1 has consistently stated that O.S.No.2/2005 and A.S.No.13/2008 ended in his favour and that the defendant's family cannot once again question the decree in O.S.No.81/1995. Nothing substantial has been elicited in his cross-examination to discredit this version. The defendant attempted to rely upon the sale deeds dated 04.03.1996 and 05.04.2004 to contend that the plaintiff himself had acknowledged Raju's ownership.

15.7. This Court has already considered that contention while discussing Issue No.1. Suffice it to observe that those documents were very much available even during the earlier litigations. If Muthammal intended to rely upon those documents to invalidate the decree in O.S.No.81/1995, it was incumbent upon her to establish the same in O.S.No.2/2005. Having failed therein, neither she nor her successors can be permitted to reopen the very same controversy.

15.8. The doctrine of Res Judicata, embodied under Section 11 of the Code of Civil Procedure, is founded upon the principle that there must be an end to litigation. Once a competent Court has finally adjudicated an issue directly and substantially in controversy, the same issue cannot be reopened between the same parties or between persons claiming under them. The Explanation VI to Section 11 CPC further provides that persons claiming under the parties to the former litigation are equally bound by the earlier adjudication. The defendant admittedly claims under Muthammal through Subramani. Therefore, she cannot occupy a better position than her predecessor.

15.9. The principle of **Constructive Res Judicata** is also attracted. Every ground of challenge available to Muthammal against the decree in O.S.No.81/1995 ought to have been urged in O.S.No.2/2005. After suffering dismissal both before the Trial Court and the First Appellate Court, the defendant cannot now seek identical relief by merely styling her claim as a counter claim. The Hon'ble Supreme Court has repeatedly held that successive litigations on identical issues undermine the sanctity of judicial proceedings and are opposed to public policy. The doctrine of finality is

intended not merely to protect the successful litigant but also to preserve the authority of judicial decisions.

15.10. The evidence of DW2 and DW3 does not advance the defendant's case. DW2 admitted that she did not know how the defendant acquired title and had no knowledge regarding the earlier litigations. Similarly, DW3 admitted that whatever knowledge he possessed regarding the earlier cases was only through the defendant's husband and not from his own personal knowledge. Their evidence, therefore, cannot outweigh the certified judicial records produced by the plaintiff.

15.11. Another significant circumstance deserves notice. The defendant has not produced any judgment, decree or order setting aside Ex.A3, Ex.A4 or Ex.A5. There is no evidence that the judgments in O.S.No.2/2005 and A.S.No.13/2008 have ever been challenged before any higher forum. Consequently, those judgments continue to remain valid, operative and binding.

15.12. This Court is therefore of the considered opinion that the present counter claim is nothing but an indirect attempt to circumvent the final adjudication rendered in O.S.No.2/2005 and A.S.No.13/2008. Such a course is wholly impermissible in law. Since the defendant claims title only through Muthammal, she is legally bound by every adjudication rendered against Muthammal in respect of the suit property. She cannot reopen issues which had already attained finality long before execution of the Settlement Deed dated 03.07.2017.

16.Findings:

Accordingly, this Court holds that the Judgment and Decree passed in O.S.No.2/2005 and the confirming Judgment in A.S.No.13/2008 are fully binding upon the defendant and operate as a complete bar against the present challenge raised in the counter claim. Issue No.4 is answered in favour of the plaintiff.

17. Issue No.5: Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?

17.1. The relief of permanent injunction sought by the plaintiff is consequential to the declaration sought against the Settlement Deed dated 03.07.2017. In order to succeed in obtaining a decree for permanent injunction, the plaintiff has to establish that on the date of institution of the suit, he was in lawful and settled possession of the suit property and that the defendant had attempted to interfere with such possession without any lawful authority.

17.2. The plaintiff has specifically pleaded that ever since the decree passed in O.S.No.81/1995 and particularly after restoration of possession through Court in E.A.No.19/2003, he has been in continuous possession and enjoyment of the suit property. According to him, after the defendant obtained the impugned Settlement Deed dated 03.07.2017, she repeatedly attempted to interfere with his peaceful possession during April 2018, on 04.12.2018, 06.01.2019 and 10.02.2019, compelling him to institute the present suit. The defendant has denied the plaintiff's possession and contended that she alone has been in possession of the suit property by virtue of the Settlement Deed dated 03.07.2017.

17.3. Thus, the principal question for consideration under this issue is as to who was in lawful possession of the suit property on the date of the suit. This Court has already held while discussing Issues Nos.1 to 4 that the defendant has failed to establish any valid title under the Settlement Deed dated 03.07.2017 and that the earlier judicial proceedings culminating in O.S.No.81/1995, E.A.No.19/2003, A.S.No.14/2008, O.S.No.2/2005 and A.S.No.13/2008 are binding upon the defendant. Those findings necessarily have an important bearing while considering the question of possession.

17.4. The documentary evidence produced by the plaintiff strongly supports his possession. Ex.A6 is the certified copy of the order passed in E.A.No.19/2003 directing restoration of possession to the plaintiff. Ex.A7 is the Amin's Return evidencing actual delivery of possession through Court. Ex.A8 is the appellate decree confirming the said order. These documents establish not merely a claim of possession but a judicial recognition of possession restored through due process of law. Apart from these judicial records, the plaintiff has also produced Ex.A9, Chitta standing in his favour, and Ex.A10 series, namely kist receipts. Though revenue records by themselves do not confer title, they certainly constitute corroborative evidence regarding possession, particularly when supported by judicial records.

17.5. The oral evidence of PW1 is also consistent with the pleadings. PW1 categorically deposed that after obtaining delivery through Court, he has continued in possession of the suit property and that the defendant attempted to interfere with such

possession. The learned counsel appearing for the defendant subjected PW1 to lengthy cross-examination in an attempt to establish that he was never in possession. PW1 admitted that both he and Raju had purchased their respective properties on the same date. However, he consistently denied every suggestion that he was not in possession.

17.6. He specifically denied:

"நான் தாவாச்சொத்தின் சுவாதீனத்தில் இல்லை என்றால் சரியல்ல."

Again he denied:

"தாவாச்சொத்தில் நான் சுவாதீனத்தில் இல்லை என்றும் பிரதிவாதிதான் சுவாதீனத்தில் இருந்து வருகிறார் என்றால் சரியல்ல."

Further, during the continuation of cross-examination, PW1 denied the suggestion that the defendant and her predecessors had been continuously in possession.

He deposed:

"ராஜுவும் அதன்தொடர்ச்சியாக இந்த பிரதிவாதிகள் சுவாதீனத்தில் இருந்து வருகிறார்கள் என்றால் சரியல்ல."

He further denied:

"தாவாச்சொத்தில் பிரதிவாதிகள் அனுபவித்து வருவதை தடைசெய்வதற்கு எந்த உரிமையும் எனக்கு இல்லை என்றால் சரியல்ல." and

"தாவாச்சொத்து பிரதிவாதிக்கு மட்டும்தான் முழு சொந்தம் என்றால் சரியல்ல."

Nothing substantial has been elicited in the cross-examination of PW1 to probabalise the defendant's possession. Mere suggestions denied by the witness do not constitute evidence.

17.7. On the contrary, the cross-examination of DW1 substantially weakens the defendant's case. DW1 repeatedly admitted that she had absolutely no knowledge regarding the earlier judicial proceedings whereby possession had been restored to the plaintiff.

She deposed:

"EA.No.19/2003 என்ற எண்ணில் ஏற்கனவே நீதிமன்ற அதிகாரி மூலம் எனது மாமியார் முத்தம்மாளுக்கு கொடுக்கப்பட்ட சுவாதீனத்தை ரத்து செய்து மீண்டும் இந்த வழக்கின் வாதிக்கு மறு சுவாதீனம் செய்து கொடுக்க உத்திரவு ஏற்பட்டு நீதிமன்ற அதிகாரி மூலம் மறு சுவாதீனம் செய்து கொடுக்கப்பட்டுள்ளது என்று சொன்னால் அது பற்றி தெரியாது."

The above admission assumes considerable importance because the defendant claims to be in possession but expresses complete ignorance regarding the judicial proceedings under which possession had already been restored to the plaintiff.

17.8. Equally significant is the evidence of DW2. DW2 claimed that she had worked as an agricultural labourer in the defendant's land. However, during cross-examination she admitted:

"ராணி பூமிக்கு நான்கு பக்கமும் யார் யார் பூமி உள்ளது என்று எனக்கு தெரியாது."

She further admitted:

"வாதி வெள்ளக்குட்டிக்கு தாவா சொத்திற்கு அருகே பூமி உள்ளதா இல்லையா என்பது பற்றி எனக்கு தெரியாது."

She also admitted:

"தாவா சொத்து ராணி, அவரது கணவர், மாமியாருக்கு எப்படி பாத்தியப்பட்டது என்று எனக்கு தெரியாது."

Thus, DW2 had no personal knowledge either regarding the title or the identity of the property. Her evidence therefore cannot establish the defendant's possession over the suit property.

17.9. The evidence of DW3 is equally significant. Though DW3 attempted to support the defendant, several admissions were elicited in cross-examination. He admitted:

"வழக்கு சொத்திற்கு தெற்கே வாதி வெள்ளக்குட்டியின் பூமி உள்ளது என்றால் சரிதான்."

He further admitted:

"சுமார் ஐந்து, ஆறு வருடத்திற்கு முன்னர் என்னுடைய பூமி ஒட்டினார் போல் உள்ள தாவா பூமியில் வெள்ளக்குட்டி ஆழ்துளை கிணர் போட்டுள்ளார் என்றால் சரிதான்."

Most importantly, he admitted:

"வாதி ஆழ்துளை கிணர் அமைத்தபோது மேற்படி ஆழ்துளை கிணர் என்னுடைய பூமியில் போட்டுள்ளார் என்று வாதியிடம் நான் தகராறு செய்தேனா என்றால் இல்லை."

Again he admitted:

"வெள்ளக்குட்டி தாவா பூமியில் ஆழ்துளை கிணறு அமைத்தபோது நானோ, பிரதிவாதியோ, பிரதிவாதியின் குடும்பத்தினரோ, வேறு நபர்களோ ஆட்சேபனை செய்யவில்லை என்றால் சரிதான்."

These admissions, in the opinion of this Court, are fatal to the defence.

17.10. If really the defendant had been in settled possession pursuant to the Settlement Deed dated 03.07.2017, the ordinary course of human conduct would have been to immediately object when the plaintiff dug a borewell in the suit property. The absence of any objection probabilises the plaintiff's version that he continued to remain in possession after obtaining Court delivery.

17.11. Another circumstance also deserves mention. The defendant has relied only upon Ex.B2 series, namely two kist receipts standing in her name. It is trite law that payment of land revenue or kist is only a fiscal arrangement between the Government and the person making payment. Such receipts neither create title nor conclusively establish possession. When compared with Ex.A6, Ex.A7 and Ex.A8, which are judicial records evidencing restoration of possession through Court process, Ex.B2 cannot prevail. Likewise, Ex.B3 is only a guideline value statement and has absolutely no relevance in determining possession. The Court is also unable to overlook the conduct of the defendant in setting up a counter claim nearly a decade after dismissal of A.S.No.14/2008. The counter claim appears to be only an attempt to overcome the binding judicial orders already operating in favour of the plaintiff.

17.12. The Hon'ble Supreme Court has consistently held that where a plaintiff proves lawful possession and establishes interference by a person having no better title, he is entitled to protection of such possession by way of permanent injunction.

17.13. In the present case, the plaintiff has successfully established:

- (i) his title through earlier judicial pronouncements;
- (ii) restoration of possession through execution proceedings;
- (iii) continuous possession supported by revenue records; and
- (iv) repeated attempts by the defendant to interfere after obtaining the impugned Settlement Deed.

On the other hand, the defendant has failed to establish either lawful title or lawful possession.

18. Findings:

Therefore, this Court is of the considered opinion that the plaintiff has established all the ingredients necessary for grant of a decree of permanent injunction. Issue No.5 is answered in favour of the plaintiff.

19. Issue No.5: Whether the defendant is entitled to the reliefs of declaration and permanent injunction?

19.1. This issue pertains to the maintainability and merits of the counter claim filed by the defendant. By way of the counter claim, the defendant seeks (i) a declaration that she is the absolute owner of the suit property by virtue of the registered Settlement Deed dated 03.07.2017 executed by her husband, and (ii) a consequential decree of permanent injunction restraining the plaintiff from interfering with her alleged peaceful possession and enjoyment of the suit property.

19.2. The burden of proving this issue squarely rests upon the defendant. It is a settled principle of civil jurisprudence that a person seeking a declaration of title must succeed on the strength of his or her own title and not on the weakness of the

opponent's case. Likewise, a decree for permanent injunction can be granted only if the claimant establishes lawful possession as on the date of the suit.

19.3. The defendant has based her entire counter claim upon the Settlement Deed dated 03.07.2017 marked as Ex.B1. She has not pleaded or proved any independent source of title apart from the said document. Consequently, unless the defendant establishes that her husband Subramani possessed a valid and subsisting title over the suit property on the date of execution of the Settlement Deed, the counter claim cannot succeed.

19.4. This Court has already held while deciding Issue Nos.1 to 4 that the title claimed by Muthammal and thereafter by Subramani had already been negated by competent Courts in O.S.No.2/2005, A.S.No.13/2008, E.A.No.19/2003 and A.S.No.14/2008. Therefore, the very foundation of the defendant's counter claim stands demolished.

19.5. The defendant herself has admitted that her title is only derivative. During cross-examination, DW1 categorically deposed:

"எனது கணவர் சுப்பிரமணி எனக்கு பி.சா.ஆ.1 ஆன தானசெட்டில்மெண்ட் பத்திரம் எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

She further admitted:

"இந்த சொத்து எனது மாமியாருக்கு பாத்தியப்பட்டது; அவருக்கு பின்னிட்டு ஒரே வாரிசான எனது கணவருக்கு பாத்தியப்பட்டது என்று எழுதிக்கொடுத்துள்ளார் என்றால் சரிதான்."

Thus, the defendant herself admits that she has no independent title. Her claim depends entirely upon the title allegedly possessed by Muthammal and Subramani.

19.6. However, when confronted with the earlier judicial proceedings which had negated Muthammal's claim, DW1 repeatedly expressed complete ignorance.

She deposed:

"அசல் வழக்கு எண்.81/1995... தீர்ப்பு பெற்றுள்ளார் என்ற விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

Again she stated:

"EA.No.19/2003... மறு சுவாதீனம் செய்து கொடுக்கப்பட்டுள்ளது என்று சொன்னால் அது பற்றி தெரியாது."

She further admitted:

"A.S.No.14/2008... தள்ளுபடி செய்யப்பட்ட விவரம் எனக்கு தெரியுமா என்றால் தெரியாது."

Likewise, she admitted ignorance regarding the dismissal of O.S.No.2/2005 and A.S.No.13/2008. These admissions clearly establish that the defendant has no personal knowledge regarding the judicial proceedings affecting the very source of her title. The counter claim is therefore not founded upon any legally established right but only upon a derivative settlement deed executed years after the earlier litigations had attained finality.

19.7. The defendant has attempted to challenge the decree passed in O.S.No.81/1995 by contending that the plaintiff had suppressed the sale deeds dated 04.03.1996 and 05.04.2004. This contention has already been considered while discussing Issues

Nos.1 and 2. Suffice it to observe that those very documents were available long prior to O.S.No.2/2005. If they were material to invalidate the decree in O.S.No.81/1995, the predecessor of the defendant ought to have established the same in the earlier proceedings. Having failed therein, the defendant cannot reopen the same controversy under the guise of a counter claim.

19.8. The plaintiff's evidence, on the other hand, inspires confidence. PW1 consistently asserted that the defendant derived no valid title under the Settlement Deed dated 03.07.2017 because the executant himself had no subsisting right over the property. During cross-examination, it was suggested to PW1 that the defendant alone was entitled to the property and that the counter claim deserved to be decreed.

19.9. PW1 categorically denied the suggestions. He deposed:

"இந்த பிரதிவாதிகள் எதிர்கோருரிமை பரிகாரத்தை பெற அருகதை உள்ளவர் என்றால் சரியல்ல."

Again he denied:

"தாவாச்சொத்தில் பிரதிவாதிகள் அனுபவித்து வருவதை தடைசெய்வதற்கு எந்த உரிமையும் எனக்கு இல்லை என்றால் சரியல்ல."

He further denied:

"தாவாச்சொத்து பிரதிவாதிக்கு மட்டும்தான் முழு சொந்தம் என்றால் சரியல்ல."

These answers remained unshaken throughout his lengthy cross-examination. Coming to the evidence of DW2, the Court finds that her testimony does not advance the defendant's case. DW2 admitted:

"தாவா சொத்து ராணி, அவரது கணவர், மாமியாருக்கு எப்படி பாத்தியப்பட்டது என்று எனக்கு தெரியாது."

She further admitted:

"வாதி வெள்ளக்குட்டிக்கு தாவா சொத்திற்கு அருகே பூமி உள்ளதா இல்லையா என்பது பற்றி எனக்கு தெரியாது."

Thus, DW2 has absolutely no knowledge regarding either the source of title or the previous litigations. Her evidence is therefore of little assistance in deciding the counter claim.

19.10. The evidence of DW3 is equally insufficient. Although DW3 attempted to state that Raju had cultivated the land for about five years, he candidly admitted:

"வெள்ளக்குட்டி தாவா பூமியில் ஆழ்துளை கிணறு அமைத்தபோது நானோ, பிரதிவாதியோ, பிரதிவாதியின் குடும்பத்தினரோ... ஆட்சேபனை செய்யவில்லை என்றால் சரிதான்."

He further admitted:

"வெள்ளக்குட்டியும் பிரதிவாதியின் மாமியாரும் நீதிமன்றத்தில் வழக்கு நடத்திய விவரங்கள்... சுப்பிரமணி சொல்லித்தான் எனக்கு தெரியும்."

These admissions clearly indicate that DW3 had no direct knowledge of the previous litigations and that even according to him, the plaintiff had carried out acts of possession by installing a borewell in the suit property without any objection from the defendant or her family members.

19.11. The documentary evidence produced by the defendant is also wholly insufficient. Ex.B1 is only the Settlement Deed. As already held under Issue No.1, a

settlement deed cannot create title where the settlor himself had no subsisting right. Ex.B2 consists only of kist receipts. It is well settled that revenue receipts are merely fiscal records and do not constitute documents of title. Ex.B3 is only a guideline value extract. Such a document merely indicates the guideline value fixed by the Registration Department and has absolutely no evidentiary value in establishing ownership or possession. Therefore, none of the documents produced by the defendant establish either title or lawful possession. This Court is also unable to overlook another important legal aspect.

19.12. The counter claim substantially seeks:

1. a declaration that the defendant is the owner of the suit property;
2. a declaration that the plaintiff's earlier decree cannot affect her rights; and
3. consequential injunction.

These reliefs directly conflict with the earlier decrees passed in O.S.No.81/1995, O.S.No.2/2005, A.S.No.13/2008, E.A.No.19/2003 and A.S.No.14/2008. Unless those decrees are first set aside in appropriate proceedings, no declaration inconsistent with them can be granted.

19.13. The defendant cannot achieve indirectly, through a counter claim, what her predecessor had failed to achieve directly in earlier litigations. Such a course would defeat the salutary principles of finality of litigation, judicial discipline and res judicata. Having regard to the entire oral and documentary evidence, this Court is of the considered opinion that the defendant has failed to establish:

- (i) any independent title;
- (ii) any lawful possession over the suit property;
- (iii) any infirmity in the earlier judgments;
- (iv) any legal basis for seeking declaration; or
- (v) any legal basis for seeking permanent injunction against the plaintiff.

20.Findings:

Consequently, the counter claim is wholly devoid of merit. Issue No.6 is answered against the defendant.

21.Issue No.7: Whether the defendant is entitled to the other reliefs claimed in the counter claim?

21.1. Issue No.7 is consequential to Issue No.6. While Issue No.6 relates to the defendant's entitlement to the principal reliefs of declaration and permanent injunction, the present issue concerns the ancillary and consequential reliefs claimed in the counter claim. Therefore, this issue has to be decided in the light of the findings already rendered on the previous issues.

21.2. The defendant has filed a counter claim seeking a declaration that the plaintiff has no right over the suit property, that the Settlement Deed dated 03.07.2017 executed in her favour is valid, and for a consequential decree of permanent injunction restraining the plaintiff from interfering with her alleged possession. She has also sought consequential reliefs flowing from the declaration.

21.3. It is well settled that a counter claim is in the nature of a cross-suit. Therefore,

the defendant, as a counter claimant, occupies the position of a plaintiff in respect of the counter claim and is bound to independently establish her entitlement to the reliefs sought. She cannot merely rely upon alleged weaknesses in the plaintiff's case. The counter claim must stand or fall on the strength of the defendant's own pleadings and evidence.

21.4. This Court has already held while discussing Issue Nos.1 to 6 that the defendant has failed to establish any independent title over the suit property. It has further been held that the Settlement Deed dated 03.07.2017 does not confer any valid right upon the defendant since the executant, namely Subramani, himself had no subsisting title capable of being conveyed.

21.5. Likewise, this Court has already held that:

- (i) the decree in O.S.No.81/1995 continues to remain valid and binding;
- (ii) the challenge made by Muthammal in O.S.No.2/2005 and A.S.No.13 /2008 had failed;
- (iii) the order restoring possession to the plaintiff in E.A.No.19 of 2003, as confirmed in A.S.No.14 of 2008, has attained finality; and
- (iv) the plaintiff is in lawful possession of the suit property.

Once these findings have been rendered, the very foundation of the counter claim disappears. The defendant has not produced any independent documentary evidence capable of displacing the earlier judicial pronouncements.

Ex.B1 is only a derivative Settlement Deed.

Ex.B2 consists merely of kist receipts.

Ex.B3 is only a guideline value certificate.

None of these documents create or establish title.

21.6. The Hon'ble Supreme Court has repeatedly held that revenue records, tax receipts and guideline value extracts are not documents of title. At best, they constitute supporting evidence when title has otherwise been established. In the absence of proof of title, such documents do not advance the defendant's case.

21.7. The oral evidence adduced on behalf of the defendant is equally insufficient. DW1 repeatedly admitted that she had no knowledge regarding the earlier litigations culminating in O.S.No.81/1995, O.S.No.2/2005, A.S.No.13/2008, E.A.No.19/2003 and A.S.No.14/2008. She further admitted that her title is derived only through her husband and mother-in-law. Therefore, her evidence itself establishes that she has no independent source of title.

21.8. DW2 admitted that she had no knowledge regarding the title of the property, the previous litigations or even the boundaries of the suit property. DW3 also admitted that whatever knowledge he possessed regarding the previous cases was only through the defendant's husband and not from his own personal knowledge. Therefore, the evidence of DW2 and DW3 cannot form the basis for granting declaratory relief.

21.9. On the contrary, the evidence adduced by the plaintiff probabilises his possession. During cross-examination, PW1 consistently denied every suggestion that the defendant was in possession or that she was entitled to the counter claim.

He specifically deposed:

"இந்த பிரதிவாதிகள் எதிர்கோருமை பரிகாரத்தை பெற அருகதை உள்ளவர் என்றால் சரியல்ல."

He further stated:

"தாவாச்சொத்தில் பிரதிவாதிகள் அனுபவித்து வருவதை தடைசெய்வதற்கு எந்த உரிமையும் எனக்கு இல்லை என்றால் சரியல்ல."

He also denied:

"தாவாச்சொத்து பிரதிவாதிக்கு மட்டும்தான் முழு சொந்தம் என்றால் சரியல்ல."

The above evidence remained unshaken.

21.10. On the other hand, an important admission was elicited from DW3. He deposed:

"வெள்ளக்குட்டி தாவா பூமியில் ஆழ்துளை கிணறு அமைத்தபோது நானோ, பிரதிவாதியோ, பிரதிவாதியின் குடும்பத்தினரோ, வேறு நபர்களோ ஆட்சேபனை செய்யவில்லை என்றால் சரிதான்."

This admission substantially supports the plaintiff's possession and weakens the defendant's plea of exclusive enjoyment. The defendant has also prayed for a decree of permanent injunction against the plaintiff. Such a relief can be granted only if the defendant proves lawful possession on the date of the counter claim.

21.11. However, as already discussed under Issue No.5, the defendant has failed to establish lawful possession. On the contrary, the judicial records marked as Ex.A6, Ex.A7 and Ex.A8 conclusively establish that possession had already been restored to the plaintiff through Court process. This Court is also of the opinion that the counter claim itself is hit by the principles of res judicata and constructive res judicata.

21.12. The defendant seeks to obtain, under the guise of a counter claim, reliefs which are wholly inconsistent with and destructive of the earlier judgments rendered in O.S.No.81/1995, O.S.No.2/2005, A.S.No.13/2008, E.A.No.19/2003 and A.S.No.14/2008. Once those judgments have attained finality, no Court can grant a declaration contrary to those judgments without first setting them aside in accordance with law. It is equally well settled that where the principal relief of declaration fails, every consequential relief necessarily falls to the ground.

21.13. Since the defendant has failed to establish her title, every consequential relief claimed in the counter claim automatically becomes unsustainable. The plaintiff has also prayed for award of compensatory costs against the defendant on the ground that the counter claim is frivolous and amounts to re-litigation of issues already settled by competent Courts.

21.14. Though this Court finds considerable force in the contention that the counter claim is founded upon issues already adjudicated, compensatory costs under Section 35-A of the Code of Civil Procedure can be awarded only in exceptional circumstances after recording specific findings regarding false or vexatious claims. In the facts and circumstances of the present case, this Court is of the view that the ends of justice would be sufficiently met by dismissing the counter claim with ordinary costs rather than awarding compensatory costs.

22. Findings:

Accordingly, the defendant is not entitled to any of the reliefs prayed for in the counter claim. Issue No.7 is answered against the defendant.

23. Issue No.8: To what other reliefs and costs are the parties entitled?

23.1. This issue is purely consequential in nature and has to be decided in the light of the findings rendered on the earlier issues. The cumulative effect of the above findings leaves no room for doubt that the plaintiff has succeeded in proving his case on the basis of both oral and documentary evidence, whereas the defendant has failed to substantiate the defence as well as the counter claim.

23.2. The documentary evidence adduced by the plaintiff, namely Ex.A1 to Ex.A12, forms an uninterrupted chain of judicial proceedings extending over nearly two decades. These documents establish that the plaintiff's title and possession have repeatedly been recognised by competent Civil Courts. The defendant has not produced any judgment or decree setting aside any one of those proceedings.

23.3. On the contrary, the documents produced by the defendant, namely Ex.B1 to Ex.B3, do not establish an independent title. Ex.B1 is only a derivative Settlement Deed executed by a person whose title itself had already been negated by competent Courts. Ex.B2 comprises only revenue receipts, which neither create nor extinguish title. Ex.B3 is merely a guideline value extract and has no evidentiary value for determining ownership or possession.

23.4. The oral evidence adduced by the defendant also does not inspire confidence. DW1 repeatedly admitted her lack of knowledge regarding the previous litigations

which constitute the very foundation of her title. DW2 admittedly had no knowledge regarding either the title or the previous proceedings. DW3 also admitted that his knowledge regarding the previous litigations was only through the defendant's husband and further admitted that the plaintiff had installed a borewell in the suit property without any objection from the defendant or her family members. These admissions substantially probabilise the plaintiff's case and weaken the defence.

23.5. Another important circumstance which deserves mention is that the defendant's counter claim substantially seeks to reopen issues which had already attained finality in earlier judicial proceedings. The principles of finality of litigation, res judicata, and constructive res judicata are intended to prevent repeated litigation over the same subject matter. Courts cannot permit successive attempts to unsettle rights which have already been finally adjudicated by competent Courts.

23.6. This Court is therefore of the considered opinion that the plaintiff has established his entitlement to the reliefs sought in the plaint, whereas the defendant has failed to establish any legal or equitable right in support of the counter claim. The plaintiff has also prayed for award of compensatory costs of Rs.1,00,000/- on the ground that the counter claim is frivolous and vexatious.

23.7. Though this Court finds that the defendant has unsuccessfully attempted to reagitate matters which have already attained finality, the power to award compensatory costs under Section 35-A of the Code of Civil Procedure is discretionary and is required to be exercised sparingly in appropriate cases after

recording specific findings that the claim or defence was false or vexatious to the knowledge of the party raising it. Having regard to the facts and circumstances of the present case, this Court is of the view that the interests of justice would be adequately served by awarding ordinary costs of the suit, instead of imposing compensatory costs.

24. Findings:

Accordingly, the plaintiff is entitled to succeed in the suit, whereas the counter claim filed by the defendant deserves to be dismissed. Issue No.8 is answered accordingly.

25. Result:

1. **In the result**, suit is decreed with costs.
2. It is hereby declared that the registered Gift Settlement Deed dated 03.07.2017, registered as Document No.477/2017 on the file of the Sub-Registrar, Thalavadi, executed by Subramani in favour of the defendant in respect of the suit property, is null and void and not binding upon the plaintiff.
3. The defendant, her men, agents, servants or any person claiming through or under her are hereby permanently restrained from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.
4. The counter claim filed by the defendant is dismissed with costs.
5. The plaintiff's prayer for compensatory costs of Rs.1,00,000/- is declined,

there being no exceptional circumstances warranting invocation of Section 35-A of the Code of Civil Procedure.

Dictated by me to the Steno typist, typed by her in the Computer directly, corrected and pronounced by me in open court on this the 30th day of June 2026.

Subordinate Judge,
Sathyamangalam.

List of witnesses

Plaintiff side:

PW-1 Thiru.Vellakutty (Plaintiff)
PW-2 Thiru.Suresh

Defendants side:-

DW-1 Tmt.Rani (Defendant)
DW-2 Tmt.Albona
DW-3 Thiru.Puttusamy

List of documents

Plaintiff side:

S.No.	Date	Particulars	Nature
Ex.A1	29.09.2000	Decree of O.S.81/1995	Certified Copy
Ex.A2	29.09.2000	Judgment of O.S.81/1995	Certified Copy
Ex.A3	22.11.2007	Decree of O.S.2/2005	Certified Copy
Ex.A4	22.11.2007	Judgment of O.S.2/2005	Certified Copy
Ex.A5	22.08.2008	Decree of A.S.13/2008	Certified Copy
Ex.A6	25.03.2010	Petition and order of E.A.19/2003	Certified Copy
Ex.A7	13.12.2007	Amin's delivery receipt in E.A.19/2003	Certified Copy
Ex.A8	22.08.2008	Decree of A.S.14/2008	Certified Copy
Ex.A9	28.12.2018	Chitta of Suit property	Online Copy
Ex.A10	-----	Gist Receipts (Nos.6)	Original

Ex.A11	13.03.2002	Sale deed through Court to Muthammal	Certified Copy
Ex.A12	03.07.2017	Gift Settlement deed in the name of defendant	Certified Copy

Defendant side:-

S.No.	Date	Particulars	Nature
Ex.B1	03.07.2017	Gift Settlement deed	Certified Copy
Ex.B2	20.02.2020	Gist Receipts (Nos.2)	Original
Ex.B3	05.04.2021	Government Guideline value	Original

Subordinate Judge,
Sathyamangalam.