

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. K. Chithra, B.A.,B.L., (Hons)

I Additional District Munsif, Nagercoil

Tuesday, on the 14th day of July, 2026

O.S. No. 130 of 2025

(CNR No. TNKK04-000186-2025)

1. Kamaraj
2. K. Vijaya Laxmi

... Plaintiffs

-VS-

1. Sundar Rajan
2. Selvakumar
3. Siva

... Defendants

This Suit came up before me on 04.07.2026 for a final hearing in the presence of Thiru.S.John Milton, Advocate for the Plaintiffs and Defendant called absent being set exparte, and upon hearing the plaintiff side arguments, upon perusing the available case records and having stood over for consideration till this day, this court delivered the following:

JUDGEMENT

1. This suit was filed by the plaintiff, for the relief of declaring the plaintiffs' right of easement by prescription over the 'C' schedule pathway and for Permanent injunction restraining the 1st and 2nd Defendants and their men or agents or anybody claim under them from block or alter the nature of the 'C' schedule pathway and denying the pathway right of the plaintiffs over the plaint 'C' schedule property along with the cost of the suit.

2. CRUX OF PLAINT FACTS:

2.1) The plaintiffs are husband and wife and they are residing in the above stated address. The 1st plaintiff is having valid title, lawful possession and enjoyment over the plaint 'A' schedule property having an extend of 18 cents of land situated in old survey No.3439/3, Re.Survey No.413/7 of Thengamputhoor village presently puthalam Village, Agasteeswaram Taluk, Kanyakumari District as per sale deed No.2576/1995 and now the plaint 'A' schedule property subdivided into Resurvey No.413/7B. The 2nd plaintiff is having valid title, lawful possession and enjoyment over plaint 'B' schedule property having an extend of 2 cents of land situated in old survey No.3439/3, Re. Survey No.413/7 of Thengamputhoor village presently Puthalam Village, Agasteeswaram Taluk, Kanyakumari District as per Settlement deed No.1078/2025 and now the plaint 'B' schedule property subdivided into Resurvey No.413/7A2.

2.2) The plaint 'A' and 'B' schedule properties are well demarcated on all the four boundaries and boundary stones are available on four corners of the Plaint 'A' and 'B' schedule properties. The original title deeds for the plaint 'A' and 'B' schedule properties were produced by the plaintiffs before bank for obtaining a loan. As such herein produced the certified copies of the above said title deeds. In the 1st plaintiff's title deed i.e. exchange deed No:1609/2014 for the plaint 'B' schedule property the survey number is wrongly mentioned as Re survey No.413/5 instead of 413/7. To correct the survey no error the 1st plaintiff

executed a self Declaration affidavit deed No.19/2025 dated 08.03.2025.

2.3) The 1st plaintiff purchased the plaint 'A' schedule property from the Defendant's elder brother namely Viswanathan, with the assurance given by all three defendants that they will provide a pathway to the plaint 'A' schedule property to access the road through the 1st and 2nd Defendants property. It is submitted that eventhough a pathway on the eastern side had been mentioned in the Sale Deed 2576/1995 in favour of the 1st plaintiff, that pathway is not in existence. The pathway for the Plaint 'A' schedule property running only through the property of Thanga Nadachi i.e. the plaint 'B' schedule property and Plaint 'C' schedule property. Based upon that promise only this 1st plaintiff purchased the plaint 'A' schedule property. Subsequently a pathway having a length of 97 feet 9 inches and the width of 12 feet 11 inches pathway formed through the Southern side of the 1st Defendant's property and the Northern side of the 2nd defendant's property had been formed that pathway is mentioned as the 'C' schedule property in the plaint. The plaintiffs are claiming only easementary right over the Plaint C' schedule property. Hence the Plaint 'C' Schedule property was not mentioned in any of the Registered document. But the Plaint 'C' schedule property was in lie, since 1995.

2.4) Later on the 1st plaintiff through an exchange deed No:1609/2014 obtained the 2 cents of land from the adjacent Thanganadachi's property that is the Plaint 'B' schedule property. Recently the 1st plaintiff executed a settlement

deed Document No: 1078/2025 in the name of the 2nd Plaintiff with regard the plaint 'B' schedule property.

2.5) It is submitted that the Defendants father got 16.600 cents of land in the Resurvey No:413/8B4 sub divided into Resurvey No: 413/8B4A1 of Thengamputhoor village presently Puthalam Village. During the Family partition only 13 . 1/2 cents in Resurvey No: 413/8B4A1 of Thengamputhoor village presently Puthalam Village had been allotted to the Defendants and the remaining 3.100 cents which is the plaint 'C' schedule property had been orally allotted to the 2nd plaintiff by the family members. The above said 3.100 cents is situated in between the 1st and the 2nd Defendants separate shares. The above said plaint 'C' schedule property is intended to be used as a pathway for the 'A' schedule property stands in the name of the 1st plaintiff.

2.6) It is submitted that the Plaint 'B' schedule property connects the plaint 'A' schedule property directly with the plaint 'C' schedule property. The plaintiffs are using the plaint 'C' schedule property pathway for ingress and egress to the plaint 'A' schedule property for the past 29 years without any interruption by the 1st and 2nd Defendants.

2.7) The 1st Plaintiff is the brother in law of the defendants. The 2nd Plaintiff is the sister of the defendants. The 2nd plaintiff and the Defendants are the members of the Hindu Joint Family. During the Family Partition of the plaint 'C' schedule property and other family properties, the 2nd Plaintiff's brothers got

separate shares, Whereas the 2nd plaintiff did not receive her share.

2.8) All the defendants are having their property in Resurvey No: 413/8B4A1. All the Defendants properties are road facing properties. The 1st defendant is the owner of the first plot of property situated on the Western side of the Thengamputhoor to Nagercoii Road i.e. on the northern side of the Resurvey No: 413/8B4A1 . The 2nd Defendant is the owner of the property laying on the southern side of the property belonging to the 1st Defendant. The 3rd Defendant is the owner of the property laying on the southern side of the property belonging to the 2nd Defendant. The property adjacent on the western side of the 1st and 2nd defendants are belongs to one Thanga Nadachi which is the plaint 'B' schedule property. The above said Thanga Nadachi is the mother of the 2nd plaintiff and the 1st to 3rd Defendants and the mother in law of the 1st Plaintiff. The property adjacent on the western side of Thanganadachi's property is the 1st plaintiff's property which is the plaint 'A' schedule property.

2.9) The Plaint 'C' schedule property is having the length 97 feet 9 inches and the width of 12 feet 11 inches wide pathway available in resurvey no: 413/8B4A1 of Thengamputhoor Village presently Puthalam Village for an extend of 3.100 cents. The plaint 'C' schedule property is commencing from the main road leading towards East to West and running through the above said 1st and 2nd Defendant's property and reaching the plaint B' schedule property in a 'L' shape.

2.10) The plaint 'A' and B' schedule properties are having no other pathway to ingress and egress other than the plaint 'C' schedule property. The plaint 'C' schedule property is plaint B' schedule property and ends at the plaint 'A' schedule property. The plaintiffs are using the plaint 'C' schedule as pathway without any interruptions.

2.11) The plaintiffs from 20.11.1995 used the Plaint 'C' schedule pathway continuously and uninterruptedly and the same was accepted and acknowledged by the defendants and not disturbed by the Defendants. The Plaint 'C' schedule pathway is absolute necessary for the beneficial enjoyment of the plaint 'A' and B' schedule properties. The plaint 'C' schedule property is the only pathway available to the plaintiffs to reach the main road and also to the premises of the plaintiffs from the main road. The rough sketch showing the plaint "A' and B" and 'C' schedule properties and the Defendants properties are annexed with the plaint.

2.12) From 20.11.1995 the plaintiffs are using the 'C' schedule pathway peacefully openly and uninterruptedly and using the same as of right. The 1st and 2nd Defendants also never made any objections for using the plaint 'C' schedule property running through the 1st and 2nd Defendants property for the past 29 years. There is no other pathway for ingress and egress to the plaint 'A' and 'B' schedule properties except this plaint 'C' schedule property. Thus the plaintiffs have gotten prescriptive easement right as a matter of necessity over the plaint

‘C’ schedule property to enjoy the plaint ‘A’ and B’ schedule properties.

2.13) In the above circumstances very recently, the 1st and 2nd Defendants attempted to disturb the rights of the plaintiff over the ‘C’ schedule pathway and on 01.08.2025 the 1st and 2nd Defendants attempted to measure the plaint ‘C’ schedule property and to construct a compound wall to obstruct the pathway with a deliberate intention to disturb the plaintiffs from using the said plaint ‘C’ schedule property pathway. When the plaintiffs asked about the proposed construction of compound wall the 1st and 2nd Defendants stated that they will not permit the plaintiffs to use the plaint ‘C’ schedule property. In furtherance on 10.08.2025 the 1st and 2nd Defendants and their men attempted to construct a compound wall. Due to the timely intervention of the plaintiffs the 1st and 2nd Defendants illegal attempts were thwarted. Immediately the-plaintiffs informed with the close relatives and the elders of the hamlet regarding the illegal activities of the 1st and 2nd Defendants. But the 1st and 2nd Defendants without considering the valid objections raised by the plaintiffs illegally attempting to block and alter the nature of the ‘C’ schedule pathway. Hence much hardship and substantial injustice caused to the plaintiffs. The 1st and 2nd Defendants has no right to do so.

2.14) The 1st and 2nd Defendants are having more muscle power and are capable of doing all illegal acts. Hence it is highly necessary to grant a decree declaring the Plaintiffs’ right of easement by prescription over the ‘C’ schedule

pathway and for a permanent injunction restraining the 1st and 2nd Defendants and their men or agents or anybody claim under them from making any construction to block or alter the nature of the plaint 'C' schedule pathway and denying the pathway right of the plaintiffs over the plaint 'C' schedule property and If such decree is not granted the plaintiffs would be put to irreparable loss and hardship. Hence, this suit is necessitated.

3. Defendant called absent, no representation, hence, Defendant are set exparte on 06.10.2025.

4. POINT TO DETERMINE:

Whether this suit is to be decreed or not?

5. EVIDENCE ON PLAINTIFF SIDE:

On the plaintiff side, the plaintiff was examined as **PW1**, **Ex.A1** to **Ex.A12** were marked. **Ex.A1** is the 20.11.1995 dated Certified copy of Sale deed No.2576/1995; **Ex.A2** is the 09.06.2014 dated Certified copy of Exchange deed No.1609/2014; **Ex.A3** is the 21.08.2025 dated Online copy of Patta; **Ex.A4** is the 21.08.2025 dated Original Revenue Tax Receipt ; **Ex.A5** is the 08.03.2025 dated Certified copy of Settlement deed No.1078/2025; **Ex.A6** is the 21.08.2025 dated Online copy of Patta; **Ex.A7** is the 21.08.2025 dated Original Revenue Tax receipt; **Ex.A8** Original Photographs; **Ex.A.9** Online copy of Resurvey Sketch; **Ex.A10** Original Rough Sketch; **Ex.A11**.Certified copy of Self Declaration Affidavit No.19/2025; **Ex.A.12** Online copy of Patta ; Upon

endorsement of learned plaintiff counsel, the plaintiff side evidence was closed on 26.11.2025 Plaintiff side arguments heard. Records perused.

6. ARGUMENTS ON PLAINTIFF SIDE:

The learned counsel for plaintiff argued that the facts stated in the plaint were proved through the documentary evidence of plaintiff and through the Ex.A1 to Ex.A12. The defendant not come forward to contest the case. Thus he prayed to decree the suit.

7. REASON FOR DETERMINATION:

7.1) This suit was filed by the plaintiff, for the relief of declaring the plaintiffs' right of easement by prescription over the 'C' schedule pathway and for Permanent injunction restraining the 1st and 2nd Defendants and their men or agents or anybody claim under them from block or alter the nature of the 'C' schedule pathway and denying the pathway right of the plaintiffs over the plaint 'C' schedule property along with the cost of the suit.

7.2) To the fact of that the 1st plaintiff has derived title over the plaint schedule property by the Old Survey No.3439/3, Re-survey No.413/7, Thengamputhoor Village, Presently, Puthalam Village, Agasteeswaram Taluk, Kanyakumari District, the plaintiff has produced the certified copy of the same as Ex.A1. For the fact of mutation in revenue records, the plaintiffs had produced Ex.A3, A6/patta and Ex.A4, A7/kara receipt. The Plaintiffs have averred that the Plaintiff has been in possession from 20.11.1995; the Plaintiffs

are using the plaint 'C' Schedule Pathway peacefully openly and uninterruptedly and using the same as of right; the 1st and 2nd Defendants never made any objections for it; the 'C' Schedule Property running through the 1st and 2nd Defendants property for the past 29 years; there is no other pathway for ingress and egress to the plaint 'A' and 'B' Schedule properties except the plaint 'C' Schedule Property; thus the plaintiffs have gotten prescriptive easement right as a matter of necessity. For the above Statements the plaintiffs have not produced any documentary Evidence . But, the 1st Plaintiff herein was examined as PW1 and he deposed facts in line with the plaint.

7.3) Though it is the case, the defendant had not come forward to defend the case. Thus the plaintiff has shown the preponderance of probability to their case.

8. In fine, this suit is decreed and thereby injunction the defendant, his men, agents in any way not to enter plaint schedule property, till the life of the plaintiffs. No order as to costs.

Dictated to Steno-Typist and typed by her directly in the Computer and corrected and pronounced by me in the Open Court on this the 14th day of July, 2026.

Sd/-(K.Chithra)

I Additional District Munsif,
Nagercoil.

Appendix:**1) Plaintiff side witnesses:**

PW1 - Kamaraj

2) Plaintiff side documents:

Ex.A1	20.11.1995	Certified copy of Sale deed no.2576/1995 in the name of the 1 st Plaintiff for the Plaint 'A' Schedule Property
Ex.A2	09.06.2014	Certified copy of Exchange deed No.1609/2014 in the name of the 1 st Plaintiff for the Plaint 'B' Schedule Property.
Ex.A3	21.08.2025	Online copy of Patta in the name of the 1 st Plaintiff for the Plaint 'A' Schedule Property
Ex.A4	21.08.2025	Original Revenue Tax Receipt in the name of the 1 st Plaintiff for the Plaint 'A' Schedule Property.
Ex.A5	08.03.2025	Certified copy of Settlement deed No.1078/2025 in the name of the 2 nd Plaintiff for the Plaint 'B' Schedule Property.
Ex.A.6	21.08.2025	Online copy of Patta in the name of the 2 nd Plaintiff for the plaint 'B' Schedule Property.
Ex.A.7	21.08.2025	Original Revenue Tax receipt in the name of the 2 nd Plaintiff for the Plaint 'B' Schedule property.
Ex.A8	-	Original Photographs showing the Plaint Schedule Properties.
Ex.A.9	-	Online copy of Resurvey Sketch showing the Plaint Schedule Properties.
Ex.A.10	-	Original Rough Sketch the Plaint Schedule properties.
Ex.A.11	-	Certified copy of Self Declaration Affidavit No.19/2025 executed by the 1 st Plaintiff.

Ex.A.12	-	Online copy of Patta in the name of defendant and others for the Plaint 'C' Schedule Property in Re-Survey No:413/8B4A1.
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3) Defendants side witnesses and documents:- Nil

Sd/-(K.Chithra)

I Additional District Munsif,
Nagercoil.

IADM Court, NGL,
O.S.No.130 of 2025
Draft/Fair Judgment,
Dated : 14.07.2026.