

TNKK040004052015



Presented on : 11-08-2015
Registered on : 11-08-2015
Decided on : 28-03-2026
Duration : 10 years, 7 months, 17 days

IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,
II Additional District Munsif, Nagercoil
Saturday, on the 28th day of March, 2026.

O.S.No.250 of 2015

CNR No.TNKK04-0000405-2015

1. G. Soman (died)
2. S. Amutha (died)
3. Sreeja

(Addl. 3Rd Plaintiff is impleaded
as legal heir of deceased 1stplaintiff
as per order in I.A.No.2 of 2022 dated
20.03.2023)

(Plaint Amended as per order in
I.A.No. 3 of 2024 dated 06.01.2024)

... Plaintiffs

-vs-

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment
(Administrative Department), Palayamkottai,
Tirunelveli.
2. 2nd defendant deleted as per order in Memo
dated 22.09.2019 and Plaint amended as per
order in I.A.No.1 of 2019 dated 25.11.2019
3. The Executive Officer,
Arulmigu Subramonia Swamy Thirucoil,
Thiruchendur.
4. The Commissioner, Nagercoil Municipality,
Nagercoil.

... Defendants

This suit is coming on 26.02.2026 before me for final hearing, in the presence of Mr. L. Rajadurai, Advocate for the plaintiff and Mr. C. Johnson, Government Pleader for the 1st defendant and Mr.R. Arumuga Perumal, Advocate for the 3rd defendant and Mr. A. Samuel Edwin, Advocate for the 4th defendant and 2nd defendant is died and upon hearing the both side arguments, perusing the material records and having stood over for consideration till this day, this Court hereby delivers the following:

J U D G M E N T

This suit is filed by the plaintiffs for permanent injunction restraining the defendants 1 to 3, their men, servants, agents or any one claiming under them from causing any disturbances to the possession and enjoyment of the Plaintiffs

over the plaint schedule property in any manner other than due process of law and for Permanent injunction restraining the 4th defendant from changing the building assessment in respect of the schedule building without hearing the plaintiffs according to law and for costs.

2. **The case of the Amended plaint in nutshell:-**

The plaintiffs aver that the plaint schedule property belongs to Mrs. Arunachalam Ammal who succeeded from their ancestors and enjoyed the property as an absolute owner. On 27.03.1989, the plaintiffs claimed to have purchased the scheduled property from the said Arunachalam Ammal for a valid consideration as per registered Doc No. 1102/1989, put up building and residing therein. The plaintiff further stated that the building is assessed by the 4th defendant municipality, separate electric connection obtained and the plaintiff are regularly paying the building tax and electricity charges regularly. The plaintiffs also asserted that they periodically modified the building and residing therein and claims that they and their predecessors in interest or continuous, open and hostile possession for the past more than 70 years.

3. The plaintiff alleged that in the year 2007, the officials of the defendants 1 and 2 approached the plaintiff and sought the particulars of plaintiff's title regarding the plaint schedule property and dropped the proceedings after convincing with the title of the plaintiff on verifying the

papers and revenue records.

4. The plaintiff further alleged that again on 24.09.2014, the defendant 1 to 3 along with musclemen damaged a compound wall put up by another person in a nearby area in an inhuman way and visited the plaintiff's building and told them they will evict the plaintiff from the suit property by removing the buildings with JCB. The plaintiff again contended that in the month of September 2014, the officials of defendant one and two approached the plaintiffs and informed that they will not cause any disturbances to the ownership and possession of the plaintiff if they give an undertaking letter brought by them and by playing fraud, misrepresentation and criminal intimidation obtained the signature of the plaintiffs without disclosing the contents and without any authority filled the same for their convenience.

5. The plaintiff further stated that on 23.03.2015, a notice was served by the commissioner, Nagercoil municipality as per ந.க.எண் 16595/2014 அ 4 asking the plaintiff to submit the documents pertaining to the building, failing which building assessment will be changed in the name of Tiruchendur Subramania Devasdhanam. The plaintiff alleged that the defendants 1 to 3 misled the Municipal Commissioner by suppressing the real facts.

6. The plaintiffs further insisted that they are the absolute owners and in enjoyment of the suit property and are paying tax to the municipality and the

government and in a peaceful settled possession. In order to disturb the possession of these plaintiffs, the officials of the defendants 1 to 3 caused disturbances. On 13.04.2015, the plaintiff sent detailed notice to the 4th defendant, informing all the facts, including their title and possession over the property.

7. The plaintiffs stated that the party in settled possession is entitled to protect their right against anyone and contended that the defendants 1 to 3 have no manner of right over the scheduled property, and they influenced the 4th defendant to serve notice in order to cause the disturbance to the possession of the plaintiffs.

8. The plaintiffs concluded that on 06.06.2015, the defendants 1 to 3 visited the suit property along with their men thereby causing continuous threat. Hence, the suit is necessitated.

9. **The case of the written statement of 3rd defendant adopted by 1st and 2nd defendants averments in brief:-**

The defendants 1 to 3 denied that the plaint property originally belonged to Mrs A Arunachalam Ammal who got it from an ancestor and subsequently the plaintiff purchased from her on 27.03.1989 and claimed that the entire property including the suit property of 2.333 cents in R.S.Nos. G1/94 and 97 belong to Parvathipuram Udamotootharmam of Arulmigu Subramanya Swamy Temple,

Tiruchendur and insisted that the said Arunachalam Ammal or her ancestors had no right over the plaint schedule property. The alleged sale deed of the plaintiff is a fraudulent and void document which will not bind the Udamotootharmam and plaint schedule property.

10. The allegation that after purchasing the plaint scheduled property the plaintiff put up building in the plaint scheduled property and is residing there and the building put up by plaintiff is assessed, periodically modified and the plaintiff residing therein is denied by defendants 1 to 3 and contended that the plaintiffs have no right to put up any building in the plaint schedule property and to pay building tax for the building situated in the plaint schedule property which belong to Parvathipuram Udamotootharmam, The defendants 1 to 3 alleged that The plaintiff has fraudulently in collusion with Municipal employees appears to have got assessment in his name, that will not create any right to the plaintiff regarding plaint schedule property.

11. he defendants 1 to 3 further stated that the Parvathipuram Udamotootharmam of Subramaniaswamy Temple, Thiruchenthoor which is a Public Trust is the owner of the plaint schedule property and the plaintiffs fully aware of the that filed this suit suppressing that fact. The plaintiffs and their predecessors are not in continuous possession for more than 70 years as alleged. They have no right to obtain any electric connection also.

12. The plaintiffs are only trespassers and they have no right to occupy the plaint schedule property or put up any constructions therein without the prior permission of the Commissioner HR & CE Department.

13. The defendants 1 to 3 wholly denied the allegation that in the year 2007 the officials attached to defendants 1 and 2 approached the plaintiffs and sought particulars about their title over plaint schedule property and on their request the plaintiff's produced documents and after verifying the papers and revenue records the officials convinced about the plaintiffs title over the plaint scheduled property and insisted no verification was done in the year 2007 and all the revenue records of the plaint schedule property are standing only in the name of Parvathipuram Udamotoo Dharmam of Thiruchenhoor Subramaniaswamy Temple. Hence, such verification is not needed. Also asserted that defendants 1 to 3 or their men never damaged the compound wall situated nearby on 24.09.2014 as alleged, never visited the suit property and threatened to remove the building by using J.C.B, never approached in the month of September 2014 wanting undertaking letter and obtained fraudulently as alleged.

14. The defendants 1 to 3 claimed that there are various encroachers in old Survey No. 3147 and about 75 encroachers approached the 3rd defendant, applied for fixing fair rent and agreed to pay fair rent for the property

encroached by them which belong to Thiruchendur Subramaniaswamy Udamoodu Dharmam. The defendants 1 to 3 also submit that they are also taking steps to accept them as tenants and fix fair rent for the portions of the Dharmam property occupied by them and for other encroachers who refused to pay fair rent of Dharmam property occupied by them, proceeding will be taken against them under Section 78 of the HR & CE Act to get recovery of those encroached portions of the Dharmam Property. The same will also apply to the plaintiff since they have every right to protect Udamootu Dharmam Property.

15. The defendants 1 to 3 also denied that they misled the 4th defendant Municipal Commissioner and claimed that they were not aware of the notice issued by the Nagercoil municipality.

16. Defendants 1 to 3 allege that the plaintiff being encroachers, the question of settled possession does not arise at all. Further, they never caused any disturbance to the plaintiff's illegal occupation and never visited plaintiff's schedule property on 06.06.2015 and they will take only legal action under Section 78 HR & CE Act to evict the plaintiff from the plaintiff's schedule property. Therefore, the plaintiffs have no cause of action to file this suit. The suit filed for mere injunction without claiming declaration of title is not maintainable. Hence, the suit is to be dismissed.

17. The case of the written statement of 4th defendant's averments**in brief:-**

The 4th defendant, Commissioner, Nagercoil Municipality admitted that the HR & CE Department Official made a claim before this defendant to change the assessment which was wrongly assessed in favour of the plaintiff's predecessor and upon the request, this defendant said to have issued notice to both parties to produce all the necessary documents to prove their title on their favour to enable to fix the assessment on their favour. But the plaintiffs failed to produce any documents so far to show their ownership over the property. This defendant being a statutory body claimed that no one can threaten this defendant as alleged by the plaintiffs and also claimed to have governed by a special statute and there is no need or necessity for them to bend with anybody else. The 4th defendant further alleged that mere payment of tax and EB charges will not confer any title over the property. The plaintiffs have no cause of action to file this suit. Hence, the suit is to be dismissed.

18. On the basis of the averments of the Plaintiff and Written statements, and upon hearing both sides, this court framed the following issues:-

1. Whether the plaintiff is in lawful settled possession and enjoyment over the Plaintiff schedule property?

2. Whether the Plaintiff is entitled to the 'A' relief of Permanent injunction as prayed for ?
3. Whether the Plaintiff is entitled to the 'B' relief of Permanent injunction as prayed for?
4. Whether the suit is bad for non seeking the relief of declaration of title?
5. To what other relief the plaintiff is entitled to an what is the order relating to cost?

By invoking Order XIV Rule 5, this court for effective adjudication and convenience altered Issue No. 1 as follows :

1. Whether the plaintiff has proved lawful and settled possession over the Plaint schedule property?

SETTLED ISSUES :

1. Whether the plaintiff has proved lawful and settled possession over the Plaint schedule property?
2. Whether the Plaintiff is entitled to the 'A' relief of Permanent injunction as prayed for ?
3. Whether the Plaintiff is entitled to the 'B' relief of Permanent injunction as prayed for?
4. Whether the suit is bad for non seeking the relief of declaration of title?

5. To what other relief the plaintiff is entitled to and what is the order relating to cost?

19. On the side of the Plaintiffs, 2nd Plaintiff was examined as PW1 and through her Ext. A1 and A5 were marked and Ex.B1 and B2 were marked while cross examination of PW1. On the side of the defendants, Thiru. Rajakumar was examined as DW1 through him Ext. B3 was marked.

20. Answer to Issue No.1:

20.1. In order to establish the case of the plaintiff, the 2nd plaintiff Amudha, who is the wife of the 1st plaintiff, has examined herself as PW1 and Exs A1 to A5 marked.

20.2. Ex.A1 is the registered Sale deed bearing Doc.No.1102/1989 executed Arunachalam Ammal in favour of the plaintiffs registered in Parasala Kerala; Ex.A2 is the legal notice dated 13.04.2015 sent by the plaintiff to the 4th defendant, the Commissioner, Nagercoil; Ex.A3 is the acknowledgement card for the legal notice received by the 4th defendant; Ex.A4 is the Water tax receipt dated 10.01.2014 in the name of the 1st plaintiff; Ex.A5 is the EB receipt dated 03.03.2015 in the name of the 1st plaintiff.

20.3. On the side of the defendants, Raja Kumar, External work Supervisor, Executive Officer Level 1 has been examined as DW1 and adduced Ex.s B1 to B3, Ex.B1 is the admitted signature of the 1st plaintiff in Ex.B2;

Ex.B2 is the Reply letter dated 27.08.2007 given by the 1st plaintiff to the 3rd defendant (Joint Commissioner / Executive Officer, Arulmigu Subramanyaswamy ThiruKoil Thiruchendur) along with postal receipt for a letter dated 17.07.2007 issued by the 3rd defendant; Ex.B3 is the letter dated 27.08.2007 sent to the Superintendent, Velli Thaambala Arakattalai, Vadiveeswaram, Nagercoil.

20.4. On perusal of both oral and documentary evidence, Ex.A1 proves that the plaintiff purchased two properties in which the suit property was scheduled as Item No.1 from one Arunachalam Ammal on 27.03.1989 for a valid consideration of Rs.17,000/- and registered in Kerala. Further, Ex.A1 shows that the original owner Arunachalam Ammal got the property only from their ancestor not from Udamotoo Dharmam.

20.5. Per contra, in Ex.B2, the 1st plaintiff has replied to the 3rd defendant's notice regarding the encroachment of Udamotoo Dharmam property Reply letter dated 27.08.2007 given by the 1st plaintiff to the 3rd defendant, wherein the 1st plaintiff admitted that the plaint schedule property belongs to Udamotoo Dharmam of Parvathipuram Yadhava Community and they have not purchased the property from Udamotoo Dharmam. The same admission is corroborated in PW1 cross examination and strikes at the root of the plaintiff's claim. In addition to that, PW1 also admitted that they have not presented before

the Tamil Nadu Sub Registrar's Office and recognized as valid. PW1 also admitted that they have not obtained patta for the suit property till date. Ex.A4 is the Water tax receipt dated 10.01.2014 in the name of the 1st plaintiff and Ex.A5 is the Electricity Bill receipt dated 03.03.2015 in the name of the 1st plaintiff does not establish that the plaintiffs along with their predecessors have been in a settled possession for 70 years. Hence, the plaintiff failed to establish lawful possession over the suit property. Therefore, this court in the light of above findings holds that the plaintiff is not in lawful possession and enjoyment over the plaint schedule property.

Accordingly, Issue No.1 is answered against the plaintiff.

21. Answer to Issue No.2 and 3:

21.1. Since it is already answered in Issue No 1 that the plaintiff has not proved his lawful possession over the plaint schedule property.

21.2. The plaintiffs further contention is that in the year 2007, officials of the defendants 1 and 2 verify the plaintiff title documents and drop their proceedings after being satisfied. However, on 24.09.2014, defendants 1 to 3 allegedly threatened, eviction, and damaged nearby property. The plaintiff further alleged that in September 2014, the official fraudulently obtained the signatures on an undertaking through misrepresentation and intimidation. Later, on 23.03.2015, allegedly due to the defendants 1 to 3 misleading the 4th

defendant municipality Nagercoil, they issued notice required building documents, by stating failing to produce the same assessment would be changed.

21.3. For which the defendants 1 to 3 insisted that they never caused any disturbance to the plaintiff's illegal occupation and never visited plaintiff schedule property on 06.06.2015 and they will take only Legal action under Section 78 Hindu Religious & Charitable Endowment Act to evict the plaintiff from the plaintiff schedule property.

21.4. The 4th defendant, Commissioner, Nagercoil Municipality also admitted that the Hindu Religious & Charitable Endowment Department Official made a claim before this defendant to change the assessment which was wrongly assessed in favour of the plaintiff's predecessor and upon the request, this defendant said to have issued notice to both parties to produce all the necessary documents to prove their title on their favour to enable to fix the assessment on their favour. But the plaintiffs failed to produce any documents so far to show their ownership over the property and affirmed that this defendant being a statutory body claims that no one can threaten them as alleged by the plaintiff.

21.5. With regard to the allegation of visit and alleged threaten by the defendants, this court again looked into PW1's cross examination. The extract are as follows,

24.09.2014 ம் ஆண்டில் எங்கள் வீட்டிற்கு யாராவது வந்தார்கள் என்றால் வரவில்லை எங்கள் வீட்டிற்கு யாரும் வந்து எங்களை அச்சுறுத்தவில்லை என்றால் சரிதான். ஆனால் பக்கத்து சந்திரன் வீட்டில் காம்பவுண்ட், சவரை அப்புறப்படுத்தினார்கள். எனவே, அப்படி நமக்கும் நேர்ந்து விடுமோ என்று நினைத்து பயந்து இந்த வழக்கை நாங்கள் தாக்கல செய்தோம் என்றால் ஆமாம். 3 ம் பிரதிவாதியின் பொறியாளர் வந்து எங்கள் கைவசம் இருந்த இடத்தை அளக்க வந்தார்கள் என்றால் வரவில்லை. வெளியில் நின்று பார்த்துவிட்டு சென்று விட்டார். நடக்காத சம்பவத்திற்கு நாங்கள் அரசு அதிகாரியிடமும், மாவட்ட ஆட்சியரிடமும் மனு கொடுத்தோம் என்றால் கொடுக்கவில்லை பிறர் கொடுத்தார்கள். எங்கள் வீட்டில் எவ்வித துண்டமும் செய்ய வரவில்லை.

1 ம் பிரதிவாதியான திருநெல்வேலி இந்து சமய அறநிலையத்துறை மண்டல இணை ஆணையாளர் முன்பாக இந்து சமய அறநிலையச் சட்டம் பிரிவு 78 ன் படி மனுதாக்கல் செய்து, அதில் எங்களுக்கு எதிராக ஒரு தரப்பு நிலை உத்தரவு பிறந்துள்ளது என்றாலும், தற்போது அந்த உத்தரவை நீக்கரவு செய்து அந்த மனு நிலுவையில் உள்ளது என்றால் சரிதான்.

21.6. As such, despite the plaintiff's alleged interference by the defendants, PW1 admitted that there were no such visits or alleged attempts made by the defendants and they filed a suit only upon apprehension of threats. Furthermore, it is pertinent to see that a proper legal recourse has been taken by the defendant and is pending. Hence, on the ground of above admission, this

court holds that there exists no cause of action for the plaintiff to file this suit. Hence the plaintiff is not entitled to the reliefs prayed for.

Accordingly, Issue No. 2 and 3 are also answered against the plaintiff.

22. Answer to Issue No.4 :

22.1. The position on this issue has been crystallised in **Anathula Sudhakar vs P. Buchi Reddy (Dead) By Lrs & Ors AIR 2008 SUPREME COURT 2033**

“17. To summarise, the position in regard to suits for prohibitory injunction relating to immovable property, is as under:

(a) Where a cloud is raised over the plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with the plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

(b) As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession.

But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.

(c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title (either specific, or implied as noticed in Annaimuthu Thevar [Annaimuthu Thevar v. Alagammal, (2005) 6 SCC 202]). Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

(d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases are the exception to the normal rule that the question of title will not be decided in suits for injunction. But persons

having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will inquire into title and cases where it will refer to the plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.”

22.2. It could thus be seen that the Hon’ble Court in unequivocal terms has held that where the plaintiff’s title is not in dispute or under a cloud, a suit for injunction could be decided with reference to the finding on possession. It has been clearly held that if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

22.3. No doubt, the Court has held that where there are necessary pleadings regarding title and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, the court may decide upon the issue regarding title, even in a suit for injunction. However, it has been held that such cases are the exception to the normal rule

that question of title will not be decided in suits for injunction.

22.4. In this background, we will have to consider the facts of the present case. From the perusal of the pleadings, it could be seen that it is the case of the plaintiffs that the plaintiffs derive title from one Arunachalam Ammal who succeeded from their ancestors and enjoyed the property as an absolute owner via registered bearing Doc No.1102/1989 on 27.03.1989. Whereas the defendants 1 to 3 denied that the plaint property originally belonged to Mrs. Arunachalam Ammal who got it from an ancestor and subsequently the plaintiff purchased from her on 27.04.1989 and claims that the entire property including the suit property of 2.333 cents in R.S.Nos.G1/94 and 97 belong to Parvathipuram Udamotootharmam of Arulmigu Subramanya Swamy Temple, Tiruchendur and insisted that the said Arunachalam Ammal or her ancestors had no right over the plaint schedule property. The alleged sale deed of the plaintiff is a fraudulent and void document which will not bind the Udamotootharmam and plaint schedule property. As such, it is very much clear that the defendants have made a serious cloud over the title of the plaintiff and the question of title cannot be decided in this suit without necessary pleadings with regard to title, appropriate issue upon title and for which the parties evidence.

22.5. Hence, in the light of above findings, this court is of the considered view that that suit is also bad for non-seeking of relief of declaration of title.

Accordingly, Issue No. 4 is also answered against the plaintiff.

23. Answer to Issue No.5

In view of the above answered issues and upon the facts and circumstances of the case, this court holds that both the parties are not entitled to any other reliefs.

In the result, the suit is dismissed. No cost.

The Judgment is directly dictated to steno-typist typed in computer, and after making necessary corrections, and pronounced by me in the open court, this the 28th day of March 2026.

II Additional District Munsif,
Nagercoil.

Plaintiffs side witnesses :-

PW1. Mrs. Amutha (2nd Plaintiff)

Plaintiffs side Documents :-

Ex.A1	27.03.1989	Original Sale deed executed by Arunachalam in favour of the 1 st and 2 nd Plaintiffs
Ex.A2	13.04.2015	Copy of Reply notice
Ex.A3	...	Postal Acknowledgement Card
Ex.A4	10.01.2014	Water Tax receipt
Ex.A5	03.03.2015	Electricity Bill receipt

Defendants side witnesses:-

DW1. Thriu. Rajakumar (3rd defendant)

Defendants side document:-

Ex.B1	...	Admitted signature of the 1 st plaintiff in Ex.B2
Ex.B2	27.08.2007	Letter given by the 1 st Plaintiff to the Joint Commissioner along with Postal cover
Ex.B3	27.08.2007	Copy of Ex.B2 sent to the Superintendent, Velli Thaambala Arakattalai, Vadiveeswaram, Nagercoil.

II Additional District Munsif,
Nagercoil.

II ADM
Draft/Fair Judgment
in O.S.No.250/2015
Dt.28.03.2026