

TNKK050000152026



**IN THE COURT OF THE SPECIAL COURT FOR FOREST OFFENCE
CASES, NAGERCOIL.**

**Present : Tmt. C. Kalaiyarasi Reena, M.L.,
Special Judge, Nagercoil.**

Saturday, the 18th day of April, 2026

ORIGINAL SUIT No. 272/2016

1. J.Selva Jeya Jegan
 2. J.Miga Anbu Jeyakumar
 3. Yeasudhass
 4. Paramayee @ Jennet
 5. Jeyarani
 6. Papa
 7. Lilly
 8. Regila
 9. Regi
 - 10.Selvan
 - 11.Mary Iyda Christy Inidha
- Plaintiffs are represented by their
Power Agent Vijayakumar**

... Plaintiffs

//Vs//

1. Daison Moses Muthuraj
2. Anbiah

... Defendants

This suit having coming up for final hearing before me on 02.04.2026 in the presence of Thiru. A. Lawrence Peter Shaw, Advocate for plaintiffs and Thiru. RadhaKrishnan, Advocate for defendants and upon hearing the arguments of both sides and perusing all the relevant records and the same having stood over for consideration till this day, this Court delivers the following:

O.S.No.272 of 2016 dated 18.4.2026

JUDGMENT

1. Suit filed for declaration and recovery of possession of B schedule property from the 1st defendant and for Mandatory Injunction to remove the construction made by the 1st defendant in the B Schedule property and for permanent injunction restraining the defendants, their men and agents not to disturb the peaceful possession and enjoyment of the suit B and C schedule properties by the plaintiffs.

2. The case of the plaintiff as stated in the Amended plaint is as follows :

i) The suit A schedule properties were originally purchased by Selvanayagam Nadar the grandfather of 1, 2 and 5 to 11 plaintiffs and father of 3rd plaintiff and father in law of 4th plaintiff vide Doc.No.995/1949 and purchased by the 3rd plaintiff and his brothers Chelladurai, the father of 1, 2 and 11 plaintiffs and Ponraj, the father of 5 to 10 plaintiffs and husband of 4th plaintiff vide doc.No.767/1974. At the time of executing the Sale Deed the predecessor of title has laid a 5 feet width East West pathway to approach the property which is mentioned as suit C Schedule property. After the death of the said Selvanayagam Nadar the properties were in joint possession and enjoyment of Ponraj, Chelladurai and Yesudhass, and the 3rd plaintiff.

(ii) A registered partition entered among Chelladurai, 3rd plaintiff Yesudhas and Ponraj along with their sister Pakiyarethinabai and their mother Pakiyamuthu. In the said partition item 1 and 2, an extent of 10 cents in North West portion was allotted to Chelladurai in which item 6 is a part of the property and Items 3 and 5 were allotted to the 3rd plaintiff Yeasudhas and Item 4 along with 10 cents in the South West portion was allotted to Ponraj. They have mutually agreed orally and continued the 5 feet width East West pathway till the Western end of the property.

(iii) The said Chelladurai has executed a registered settlement deed in respect of plaint A schedule item no.1 property in favour of his younger son 1st plaintiff and Item No.2 property in favour of his elder son the 2nd plaintiff and Item no.6 property in favour of his daughter 11th plaintiff. And sold the reaming extent of 7 cents on the western side. The said Ponraj has sold an extent of 10 cents on the south west. All the plaintiffs are using the 5 feet East West path way on the Southern side of their properties. Also the Panchayat Water connection and the E.B. pole are taken through the 5 feet East West path way on the Southern side left by the plaintiffs in their own land.

iv) On 9.10.2016 the 1st defendant with the help of rowdy elements constructed a compound wall at the northern end of the pathway by encroaching the 5 feet path way left by the plaintiffs starting from the plaint A schedule property item No.3 to the southern end. The 2nd defendant is going to construct the wall by encroaching the path laid by the plaintiffs for access to their C schedule property. The 1st defendant threatened the plaintiff and told that there is no pathway and he is going to make fence in front of the plaintiffs' property. There is no other alternative pathway to approach the plaintiffs' property. The plaintiffs approaches the defendants for mediation which results in failure, hence the suit filed for declaration and recovery of possession of B schedule property from the 1st defendant and for Mandatory Injunction to remove the construction made by the 1st defendant in the B Schedule property and for permanent injunction restraining the defendants, their men and agents not to disturb the peaceful possession and enjoyment of the suit B and C schedule properties by the plaintiffs.

3. The gist of Written Statement of defendants :-

The plaintiffs falsely stated that the predecessor of title has laid a 5 feet width east west pathway to approach the property which is mentioned as plaint C schedule property. In fact on the western side of the plaint A schedule property main road is available and on the eastern side of the plaint schedule property a Kaal pathway is available. Originally the 1st defendant's father Arul Sigamoni and 2nd defendant Anbiah got the portion of property in R.S.No.817/6 through registered partition deed dated 25.10.1979. After obtaining the property the 1st defendant's father constructed a compound wall within his property and has been enjoying and possessing the property as an absolute owner. The compound wall is existing from the year 1979. The compound wall available in the 1st defendant's property was in a damaged stage and hence the 1st defendant taking steps to renovate the compound wall. At that instance all the plaintiffs alone threatened the 1st defendant and making disturbance to the construction of compound wall. Defendants never encroached any portion of land in R.S.No.817/5B2 and the plaintiffs have no such pathway through the defendants property to approach their property in R.S.No.817/5B2. The plaintiffs have no manner of right to recover the possession of the plaint B Schedule property from the 1st defendant since the 1st defendant never encroached the property comprised in R.S.No.817/5B2. The plaintiffs are having a right to form a pathway within their property comprised in R.S.No.817/5B2. The 2nd defendant executed the settlement deed in favour of his son, hence he is not the owner of the said property. Hence the suit is bad for mis joinder of parties. The plaintiffs purposely sold the western side of their property which is accessing the road and seeking a pathway right over the patta land of the defendants, hence this suit is liable to be dismissed.

4. On the above pleadings, the following issues were framed on 04.8.2018:

1. Whether the 1st defendant encroached the plaint B schedule property ?
2. Whether the plaintiffs are entitled to the relief of declaration and recovery of possession of B Schedule property from the 1st defendant ?
3. Whether the plaintiffs are entitled to the relief of Mandatory Injunction as prayed for ?
4. Whether the plaintiffs are entitled to the relief of Permanent Injunction as prayed for ?
5. Whether the suit is bad for mis-joinder of parties ?
6. To what other relief the plaintiffs are entitled ?

5. On the side of plaintiff, the 2nd plaintiff examined himself as P.W.1 and Ex.A1 to Ex.A14 marked through him. The Power of Attorney Vijayakumar examined as P.W.2 and Ex.A15 to Ex.18 marked through him. On the side of the defendants, the 1st defendant examined as D.W.1 and Ex.B1 to B10 marked through him. The Interim Commissioner Report along with plan and 11 photos are marked as Ex.C1 and Final Commissioner Report along with Surveyor Plan marked as Ex.C2.

6. Issue Nos. 1 and 2 :-

Considering the plea of the plaintiffs, the learned counsel appearing for plaintiffs argued that, the properties of plaintiffs are situated in S.No.817/5B2 as mentioned in Ex.A11 and the suit B and C schedule are common pathways to their properties situated at southern side of their property and said pathway is situated in S.No.817/5B2. In this regard on perusal of A schedule property, it reveals that there was reference of 6 items property in which all the 6 items were situated in

S.No.817/5B2 and out of which 5 are houses and one is vacant land. The door numbers for houses are 4/40, 4/41, 4/43, 4/42 and 4/47. The 5th item property is vacant land.

7. Furthermore, 2nd plaintiff examined as P.W.1 and Ex.A1 to A14 marked through him. On perusal of Ex.A1 - certified copy of partition deed dated 26.4.1976, it reveals that Ponraj, Chelladurai and 3rd plaintiff, along with their sister and mother entered into partition deed, and in the said partition item No.1, 2 allotted to the share of chelladurai, in which item No.6 is the part of property. Item Nos.3 and 5 were allotted to the 3rd plaintiff. Item No.4 and south west portion to the extent of 10 cents allotted to Ponraj. Through Ex.A2 the said Chelladurai executed the settlement deed in favour of 11th plaintiff in respect of 6th item property. On perusal of Ex.A3, it reveals that Chelladurai executed the Settlement Deed in favour of 2nd plaintiff in respect of 2nd item of property.

8. Considering the Ex.A4 the said Chelladurai executed settlement deed dated 9.11.2009 in favour of 1st plaintiff in respect of 1st item of property. Computerized copy of Patta No.3982 for S.No.817/5B2 is marked as Ex.A5, in which Chelladurai, 3rd plaintiff and 2nd plaintiff are mentioned as 4th, 5th and 13th Pattadhar in the joint patta. The Kist Receipt stands in the name of Ponraj for Fasali Year 1426 for S.No.817/5 is marked as Ex.A6, the House Tax Receipt stands in the name of 1st plaintiff in respect of 1st item of property is marked as Ex.A7. The House Tax Receipt stands in the name of 3rd plaintiff in respect of 3rd item of property is marked as Ex.A8, the House Tax Receipt stands in the name of 4th plaintiff in respect of 4th item of property is marked as Ex.A9, the House Tax Receipt stands in the name of 11th plaintiff in respect of 6th item of property is marked as Ex.A10, the Rough Sketch of suit property is marked as Ex.A11, the House Tax Receipt stands in the name of 2nd plaintiff in respect of 2nd item of

property is marked as Ex.A12 and the Kist Receipt stands in the name of 2nd plaintiff for Fasali Year 1426 for S.No.817/5B2 is marked as Ex.A13.

9. On careful perusal of Ex.A1 to Ex.A13, it reveals that the entire A Schedule property items Nos.1 to 6 properties are situated in S.No.817/5B2 and they belongs to plaintiffs. Further in this suit, the Advocate Commissioner visited the suit property and filed the interim and final report. The interim report along with plan and 11 photos marked as Ex.C1. The Final Report along with Surveyor plan marked as Ex.C2. On careful perusal of Ex.C1 and Ex.C2 it was clearly mentioned that the suit A schedule properties are situated in S.No.817/5B2 and houses and vacant site of plaintiffs are present.

10. In this regard on plaintiffs side they argued that the plaint B and C Schedule pathways situated in S.No.817/5B2 which are in use of plaintiffs and in B Schedule pathway 1st defendant encroached and constructed the compound wall. The learned counsel appearing for defendants argued that the said compound wall is in existence from the year 1979 and it was situated in S.No.817/6 which is the property of 1st defendant and he constructing the compound wall which is in damaged condition. There is no such existence of any pathway as pleaded by the plaintiffs.

11. On defendant's side to show their ownership towards the property in S.No.817/6, the 1st defendant examined as D.W.1 and Ex.B1 to Ex.B10 marked through him. The certified copy of partition deed dated 25.10.1979 marked as Ex.B1. On careful perusal of Ex.B1, shows that partition entered between father of 1st defendant and 2nd defendant. In the said partition, the western portion of S.No.817/6 and eastern portion of S.No.817/6 allotted to them respectively and there is a pathway in between the S.No.817/6 property. The surveyor plan in

Ex.C2 also shows the same. Further through Ex.B2, the 2nd defendant and his wife executed the settlement Deed dated 25.10.2006 in favour of his son William, in which it was clearly stated that at the western side of 2nd defendant property Road is situated. On careful perusal of Ex.B3, the father of 1st defendant executed the settlement deed dated 4.4.2008 in favour of 1st defendant, in which it was clearly stated that in the eastern side of his property the pathway is situated.

12. Furthermore, Original joint Patta No.1620 for S.No.817/6 is marked as Ex.B4, in which son of 2nd defendant and 1st defendant are mentioned as 5th and 6th Pattadar. Blue print of House of 1st defendant in R.S.No.817/6 is marked as Ex.B5. The Electricity bill for the 1st defendant's house is marked as Ex.B6, Original Property Tax Receipt stands in the name of 1st defendant is marked as Ex.B7, Original Water tax receipt stands in the name of 1st defendant is marked as Ex.B8, Original Kist Receipt stands in the name of 1st defendant for fasali year 1435 in respect of S.No.817/6 is marked as Ex.B9 and Field Measurement Sketch of S.No.817/6 is marked as Ex.B10.

13. Considering that the P.W.2 gave complaint marked as Ex.A5 on 29.6.2017 to Electricity Board not to give electricity connection to 1st defendant to the property situated in S.No.817/5B2. But the Electricity Board rejected the plea of plaintiffs and sent reply through Ex.A16. On careful perusal of Ex.A16, gave reply that the Electricity Board received the opinion of Government pleader and there is no objections as 1st defendant applied for electricity connection for his property in S.No.817/6 and connection granted on 21.06.2017. On careful perusal of Ex.B1 to Ex.B10 and Ex.A15 and Ex.A16, it is crystal clear that the defendants property is situated in S.No.817/6 and they are absolute owner.

14. In this regard, on perusal of description of suit B and C Schedule properties,

B Schedule:

District : Kanniyakumari
Taluk : Agasteeswaram,
Village : Dharmapuram,
R.S.No . : 817/5B2,
Extent : 3 ³/₄ cents,
Description : To an extent of 3 ³/₄ cents pathway

Boundaries

North : Property belongs to Plaintiff Nos.3 to 11
South : Property belongs to 1st defendant
East : Remaining part of the pathway
West : Property Sold by Ponraj

C Schedule :

District : Kanniyakumari,
Taluk : Agasteeswaram,
Village : Dharmapuram,
R.S.No. : 817/5B2,
Extent : 1 ³/₄ cents
Description : To an extent of 1 ³/₄ cents pathway.

Boundaries

North : Property belongs to Ambrose
South : Property belongs to 2nd defendant
East : Remaining part of the pathway
West : Pathway

15. Both the B and C Schedule properties are pathways and the Survey Number stated for them are S.No.817/5B2 and consists of 3 $\frac{3}{4}$ cents and 1 $\frac{3}{4}$ cents respectively. The contention of plaintiffs is the B Schedule pathway is situated on northern side of 1st defendant property and C Schedule pathway is situated on northern side of 2nd defendant property and the both pathways situated in S.No.817/5B2 which are the common pathway belong to plaintiffs and the 1st defendant made encroachment in the B Schedule pathway and build the compound wall. In this regard, the 1st defendant denied that there is no such pathway and he build the compound wall within his property situated in S.No.817/6.

16. In this regard, the crucial point arises for determination are whether there exists the B and C Schedule pathways for the usage of plaintiffs and whether the said pathway situated in the S.No.817/5B2 property of plaintiffs. On plaintiffs side pleaded in the suit that at the time of partition between Chelladurai , Ponraj and 3rd plaintiff on 26.4.1976 itself, they have mutually agreed orally and continued the 5 feets width east west pathway till the western end of the property towards main road which is situated in S.No.817/5B2.

17. Considering the Ex.B10 - the Field Measurement Sketch of S.No.817/6, it was shown that the property of S.No.817/5B2 was situated on the northern side of S.No.817/6. Hence, the said pathway as pleaded by plaintiffs would be situated at the south side of their properties. In this regard, on careful perusal of Ex.A2, the Certified Copy of Settlement Deed executed by Chelladurai in favour of 11th plaintiff in respect of 6th item property in A Schedule property, in the description of property stated as follows:-

“சொத்தில் வடக்கணைய கிழமேலாக போட்டிருக்கும் பாதை வழி போக்குவரத்து செய்யும் பாதை அவகாசமும் சேர்ந்த சொத்தாகும்.”

18. Furthermore in the Ex.A3, Certified Copy of Settlement Deed executed by Chelladurai in favour of 2nd plaintiff in respect of 2nd item of property, it was stated as for the 2nd item of property the eastern boundary is pathway and southern boundary is street. In the Ex.A4, Certified Copy of Settlement Deed executed by Chelladurai in favour of 1st plaintiff in respect of 1st item of property, also stated in the description of property as follows:-

“மனையில் தெக்கையை உள்ள மனையில் கிழக்கருகோடு 4 அடி வீதியிலுள்ள பூமியில் வழியாக தெற்கேயுள்ள தெருவரை தடஸ்தமில்லாமல் வழி நடந்து கொள்ளும் பாதை அவகாசமும் கூடியதாகும்”

19. Considering the Ex.A1 to Ex.A4, in all the documents there is the mention about the pathway stated in suit B and C Schedule property. Further, in this regard on plaintiffs side filed the petition for visiting the suit property by the Court Commissioner and the Court Commissioner filed the interim and final report and he visited the suit property along with Taluk Surveyor, which are marked as Ex.C1 and Ex.C2. The Court Commissioner visited the suit property on 27.10.2016 and filed the interim report with plan and 11 photos. On careful perusal of plan, it was clearly stated that there exists the B and C Schedule pathway and plaintiffs property situated on northern side of pathway and defendants property situated on southern side of said pathway. The said pathway is the only way for ingress and egress to the plaintiff's property.

20. In the Commissioner Report Ex.C1, it has been stated that,

“1 ம் இனச்சொத்திற்கு 2 ம் இனச்சொத்தின் வழியாக 'B' பட்டிகை பாதை வழியாக உள்ளே செல்லவும், வெளியேறவும் மேற்படி பாதை விடப்பட்டுள்ளது. 2 ம் இனச் சொத்தின் தெற்கு பகுதியில் 'B' பட்டிகை தொட்டு சுமார் 1 1/2 அடி உயரத்திலும் 1 1/4 அடி வீதியில் AF என்ற புள்ளியில் கற்கள் மற்றும் சிமெண்ட் கலவையால் ஆன அடித்தளம் (basement) கட்டப்பட்டுள்ளது. மேற்படி இடத்தில் புதிதாக கற்களால் சுமார் 1 1/2 அடி உயரத்தில் 1 1/4 அடி அகலத்தில் அடித்தளம் (basement) கட்டப்பட்டு அதன்மீது (Hollow Block) சிமெண்ட் செங்களால் ஆன சுற்று சுவர் WZ1 என்ற புள்ளியிலும் WT என்ற புள்ளி வரையிலும் புதிதாக கட்டப்பட்டுள்ளது.

'A' பட்டிகையில் 1 முதல் 6 இனச்சொத்துக்களுக்கு B மற்றும் C பட்டிகை பாதை தவிர வேறு பாதைகள் எதுவும் இல்லை."

21. The report clearly shows that there is existence of B and C Schedule pathways on the southern side of plaintiff's property and there made the new basement construction with hollow blocks in the western side of B Schedule pathway and for the 1 to 6 items of properties of A Schedule property and the B and C Schedule pathway is the only way to access.

22. Furthermore the Court Commissioner visited the suit property on 22.03.2017, 15.10.2021 and 27.01.2024 along with surveyor and submitted the final report along with Surveyor Plan, which marked as Ex.C2. The memo filed by the defendants to ascertain the following points during the Court Commissioner visit and stated as, to measure the defendants property available in R.S.No.817/6 of Dharmapuram Village as per resurvey and as per lie, to measure the R.S.No.817/5 of Dharmapuram Village as per resurvey and as per lie, to note down the physical features of the defendants property and to note down the main road available on the western side and the kaal pathway available on the eastern side of R.S.No.817/5 of Dharmapuram Village.

23. On careful perusal of final report of Court Commissioner Ex.C2, it was clearly stated as, "மேற்படி கிழமேலாக செல்லும் பாதையானது சர்வே எண்.817/5B2 அமைந்துள்ள வீடுகளின் தெற்குபுறம் தொடங்கி கதவு எண்.4/47 தொடங்கும் இடத்தில் முடிகிறது மேற்படி "ஏ" பட்டிகையில் அமைந்துள்ள ஐந்து வீடுகளுக்கும் கிழமேலாக செல்லும் "IJ" என்ற புள்ளியில் இருந்து தொடங்கி "VX" என முடியும் பாதை தான் ஒரே பாதை ஆகும். 'B' பட்டிகை பாதை சொல்லப்பட்டுள்ள வரைபடத்தில் "IJMN" என காட்டப்பட்டுள்ள மண் பாதை வழியாக தான் மேற்படி கதவு எண்கள் 4/40, 4/41, 4/42, 4/43, 4/47 வீடுகளுக்கு குடிநீர் இணைப்பு கொடுக்கப்பட்டுள்ளது. மேற்படி குடிநீர் இணைப்பானது வடக்கு தெற்காக செல்லும் வரைபடத்தில் காட்டப்பட்டுள்ள 3.0 மீட்டர் அகலம் கொண்ட பாதையிலிருந்து கிழமேலாக செல்லும் 1.4 மீட்டர் அகலம் கொண்ட பாதை வழியாக செல்கிறது. 'B' பட்டிகை பாதையாக சொல்லப்பட்டுள்ள இடத்தில் கிழமேலாக செல்லும் பாதையின்

கிழக்கு பகுதியில் மின் இணைப்பு தூண் AKD1-F1/14-லிருந்து வாதிகளுக்கு மின்சாரம் செல்கிறது. "B" பட்டிகையாக சொல்லப்பட்டுள்ள சர்வே எண் 817/5B2 பாதையானது "IJMN" என்று வரைபடத்தில் குறிப்பிட்டுள்ளது. வரைபடத்தில் MN என்ற பகுதியில் இருந்து VX என்ற பகுதிவரை புதிதாக கற்கள் மற்றும் சிமெண்ட் கலவையால் ஆன அடித்தளம் 1 1/2 அடி உயரத்திலும் 1 3/4 அடி அகலத்திலும் கட்டப்பட்டு அதன் மீது சுமார் 4 1/2 அடி உயரத்தில் சிமெண்ட் செங்கற்கள் (Hollow blocks) ஆன சுற்று சுவர் கட்டப்பட்டு 'C' பட்டிகை பாதை தடை செய்யப்பட்டுள்ளது."

24. Considering the Ex.C2 report, it reveals that there is existence of B and C Schedule pathways from west to east direction toward the eastern side road. Further, regarding the alternative pathway to the plaintiffs it was clearly stated that the B and C Schedule pathway is the only pathway to A Schedule properties and there is no other alternative pathway in existence.

25. Furthermore on careful perusal of plan of Taluk Surveyor, both the B and C Schedule pathways are situated in the S.No.817/5B2, which is the property of plaintiffs and there situated the electric post in the said pathway. In the survey plan the C Schedule pathway stated as situated in S.No.817/5B2 consists of 1.284 cents in the eastern side of suit property which runs from west to east till the road on eastern side. Hence from the Surveyor plan it is crystal clear that both the B and C Schedule pathways are situated in S.No.817/5B2 within the properties of plaintiffs.

26. On defendants side argued that there is existence of compound wall from the year 1979 and for the renovation of said compound wall he started the construction. In this regard, on careful perusal of photos submitted in Ex.A14 and 11 photos submitted by Court Commissioner in Ex.C1, it clearly shows that new basement work was done and the new compound wall was partly constructed by using cement hollow blocks. Further on 1st defendant side no documents filed to show that there exists the compound wall from 1979 in the S.No.817/5B2, hence the plea of 1st defendant that he construct compound wall for renovation purpose is not reliable.

27. Furthermore on defendants side argued that for the plaintiffs property there is another alternative pathway situated on the northern side of their property. In this regard on careful perusal of Ex.C2, it was clearly stated as :-

"மனுதாரர்கள்/வாதிகள் பட்டிகை இனச் சொத்தாக சொல்லப்பட்டுள்ள 'B' & 'C' தவிர எந்த பாதையும் இல்லை. இது வரைபடத்தில் IJ என தொடங்கி XV வரை முடிகிறது. 'B' பட்டிகையாக சொல்லப்பட்டுள்ள சர்வே எண் 817/5B2 பாதையானது "IJMN" என்று வரைபடத்தில் குறிப்பிட்டுள்ளது. அது மேற்படி சர்வே எண்ணின் ஒரு பகுதி ஆகும்."

28. Considering the final Commissioner Report and Surveyor plan, it has been clearly mentioned that apart from suit B and C Schedule pathways, there is no other pathway available to the plaintiffs. Further on careful perusal of Surveyor plan, the newly constructed compound wall is stated as "கட்டுமானம்" and the said construction is done in the property of S.No.817/5B2 in area of 0.222 cents. Which clearly reveals that the newly partly constructed compound wall was build by 1st defendant on the property in S.No.817/5B2 in B Schedule pathway, which is the property of plaintiffs survey number. The property belongs to defendants are situated in S.No.817/6. On defendants side they never filed any objections to Ex.C1 and Ex.C2.

29. Based on the above said discussions and documentary evidences on both sides, this court is of the consider view that, the newly construction was done by 1st defendant in the property of S.No.817/5B2 in the B Schedule pathway, hence it is crystal clear that 1st defendant encroached the plaintiff B Schedule pathway by putting illegal construction to the extent of 0.222 cents in the said pathway. Hence the plaintiffs are entitled for the relief of recovery of possession of B Schedule pathway from the 1st defendant and also hereby declared that the suit B Schedule pathway is in existence and in usage and it belongs to plaintiffs for the ingress and egress towards their properties, and Issue No.1 and 2 are answered accordingly.

30. Issue No. 5 :-

On defendants side argued that, the 2nd defendant and his wife already on 25.10.2006 executed settlement deed in favour of their son William, hence at present the William is the owner of the said property, but the 2nd defendant is impleaded as defendant hence the suit is bad for misjoinder of parties. In this regard the settlement deed dated 25.10.2006 marked as Ex.B2, which shows that there is transfer of ownership to the son of 2nd defendant.

31. Considering that the property of son of 2nd defendant is situated on the southern side of the suit C Schedule pathway. Further it is admitted by the plaintiffs that the 2nd defendant or his son William they never made any encroachment in the suit C Schedule pathway. The relief of Permanent Injunction alone sought against 2nd defendant and the son of 2nd defendant is the present owner of property, hence this court comes to the conclusion that the suit is not bad for misjoinder of parties and suit is maintainable and issue No 5 is answered accordingly.

32. Issue No. 3 and 4 :-

Based on the discussions in the Issue No.1 and 2, it was held that the 1st defendant made encroachment by putting illegal constructions in the suit B Schedule pathway. Hence the plaintiffs are entitled for the relief of Mandatory Injunction to remove the construction made by the 1st defendant in the suit B Schedule pathway. Since it is proved that the 1st defendant made encroachment and disturbed the possession of plaintiffs, this court comes to the conclusion that the plaintiffs are entitled for the relief of Permanent Injunction restraining the defendants or their men not to disturb the peaceful possession and enjoyment of the suit B and C schedule pathway by the plaintiffs and issue No. 3 and 4 are answered accordingly.

33. Issue No. 6 :-

In the detailed discussions in the Issue Nos. 1 to 5 this Court comes to the conclusion that the plaintiffs are entitled for the relief of declaration and recovery of possession of B schedule property from the 1st defendant and that the plaintiffs are entitled for Mandatory Injunction to remove the construction made by the 1st defendant in the B Schedule property and that the plaintiffs are entitled for permanent injunction, hence plaintiffs are not entitled for any other reliefs in this suit and issue No. 6 is answered accordingly.

34) In the result, the suit is decreed as follows,

- i) The plaintiffs are entitled for the relief of declaration that the suit B schedule pathway belongs to plaintiffs and they are entitled for the relief of recovery of possession of B schedule pathway from the 1st defendant,**
- ii) The plaintiffs are entitled for the relief of Mandatory Injunction and 1st defendant is hereby directed to remove the construction made by him in the suit B Schedule pathway within the period of 4 weeks from the date of Decree,**
- iii) The plaintiffs are entitled for the relief of permanent injunction restraining the defendants or their men and agents not to disturb the peaceful possession and enjoyment of the suit B and C schedule pathway by the plaintiffs.**
- iv) Considering the relationship between the parties, both parties shall bear their own costs.**

Dictated to the Steno-typist and directly typed by her in computer and corrected and pronounced by me in the open court on **18th day of April, 2026.**

Special Judge,
Nagercoil.

APPENDIX :

PLAINTIFF SIDE EXHIBITS :

Ex.A1	26.4.1976	Certified Copy of Partition Deed.
Ex.A2	25.5.2000	Certified Copy of Settlement Deed executed by Chelladurai in favour of 11 th plaintiff in respect of 6 th item property in A Schedule property.
Ex.A3	6.10.2009	Certified Copy of Settlement Deed executed by Chelladurai in favour of 2 nd plaintiff in respect of 2 nd item of property.
Ex.A4	9.11.2009	Certified Copy of Settlement Deed executed by Chelladurai in favour of 1 st plaintiff in respect of 1 st item of property.
Ex.A5	---	Computer copy of Patta No.3982 for S.No.817/5B2.
Ex.A6	15.10.2016	Original Kist Receipt stands in the name of Ponraj for Fasali Year 1426 for S.No.817/5.
Ex.A7	3.5.2010	House Tax Receipt stands in the name of 1 st plaintiff in respect of 1 st item property.
Ex.A8	15.2.2006	House Tax Receipt stands in the name of 3 rd plaintiff in respect of 3 rd item property.
Ex.A9	26.2.2015	House Tax Receipt stands in the name of 4 th plaintiff in respect of 4 th item property.
Ex.A10	22.2.2016	House Tax Receipt stands in the name of 11 th plaintiff in respect of 6 th item property.
Ex.A11	---	Rough Sketch of suit property.

Ex.A12	15.10.2016	Original House Tax Receipt stands in the name of 2 nd plaintiff in respect of 2 nd item property.
Ex.A13	15.10.2016	Original Kist Receipt stands in the name of 2 nd plaintiff for Fasali Year 1426 for S.No.817/5B2.
Ex.A14	---	5 Nos of photos of suit property.
Ex.A15	29.06.2017	Complaint given by Vijayakumar to Electricity Board.
Ex.A16	11.08.2017	Reply Notice from Electricity Board to Vijayakumar.
Ex.A17	8.01.2020	Complaint by Vijayakumar to the Panchayath president of Athikkathuvilai.
Ex.A18	9.01.2020	Postal Acknowledgment card as complaint received by Panchayath president of Athikkathuvilai.

PLAINTIFF SIDE WITNESSES :

P.W.1 – Miga Anbu Jeyakumar (2nd Plaintiff)

P.W.2 – Vijayakumar (Power of Attorney)

DEFENDANTS SIDE EXHIBITS :

Ex.B1	25.10.1979	Certified copy of Partition Deed.
Ex.B2	25.10.2006	Certified copy of Settlement Deed executed by 2 nd defendant and his wife Annathangam in favour of his son William.
Ex.B3	4.4.2008	Certified copy of Settlement Deed executed by Arulsigamani in favour of his son 1 st defendant.
Ex.B4	31.10.2008	Original joint Patta No.1620 for S.No.817/6.
Ex.B5	26.8.2016	Blue print of House of 1 st defendant in R.S.No.817/6.
Ex.B6	19.06.2025	Electricity bill for the 1 st defendant's house.
Ex.B7	9.7.2025	Original Property Tax Receipt stands in the name of 1 st defendant.
Ex.B8	9.7.2025	Original Water tax receipt stands in the name of 1 st defendant.

Ex.B9	3.7.2025	Original Kist Receipt stands in the name of 1 st defendant for fasali year 1435 in respect of S.No.817/6.
Ex.B10		Field Measurement Sketch of S.No.817/6.

DEFENDANTS SIDE WITNESSES :

DW1 - Daison Moses Muthuraj (1st defendant)

Special Judge,
Nagercoil.

O.S.No.272/2016
Draft/Fair Judgment
Dated : 18.04.2026.