

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF
PADMANABHAPURAM.**

**Present: Thiru.R.Karthikeyan, B.A., B.L.,(Hons.)
Principal District Munsif.**

Wednesday, the 11th day of March 2026

O.S.No. 23/2020

CNR.No.TNKK08-000037-2020

1. Jeya Raj,
(Plaintiff and defendants 3 to 5 recorded as L.R.s of deceased 2nd defendant
as per order in I.A.No.07/2024 dated 10.02.2025)

.... Plaintiff

/ Vs /

1. The State of Tamil Nadu,
Rep.by the District Collector.
2. Rejeenal
3.Vijayan
4.Rani
5.Sindu Mary
(Plaintiff and defendants 3 to 5 recorded as L.R.s of deceased 2nd defendant
as per order in I.A.No.07/2024 dated 10.02.2025)

... Defendants

This suit is coming before me for final hearing in the presence of
Mr.Shajin Raj, learned counsel for the Plaintiff and Mr.J.Jeba John,
Government pleader for the defendant D1 and Mr.Paul Raj, Learned counsel
for the defendant D2 to D5. Upon hearing the both side counsel and on
perusal of records having stood over for consideration till this day, this court
delivers the following :-

JUDGMENT

Suit is filed for declaration his right over plaint schedule property by adverse possession, 1st defendant and his subordinates may be restrained by a decree of permanent injunction from initiating or taking any action to dispossess and order evict the plaintiff and defendants 2 to 5 and other reliefs.

2. THE AVERMENTS IN THE PLAINT IN BRIEF :-

i) The property scheduled here under is a government land and a specific plot measuring an area of 75 cents in Re-survey No.6/3 was in possession and enjoyment of Rajayyan S/o.Jesayya, the father of the plaintiff and defendants 3 to 5 and husband of 2nd defendant. Since the days of the plaintiff's father died on 12.02.2020 and his right over the property devolved on his heirs, the plaintiff and defendants 2 to 5. The 1st defendant has taken major portion of 75 cents for the purpose of Periyar Ninaivu Samathuvapuram at Pechipparai leaving an area of 24 cents and 640 sq.links which is now in possession of the plaintiff's family. The suit property measuring an area of 24 cents and 640 sq.links which is in possession and enjoyment of the plaintiff and defendants 2 to 5. The suit property there is a asbestos house bearing door No. 13/51/2. The plaintiff's father effected

valuable improvements in the suit property by planting various trees. The plaintiff is in possession and enjoyment of the plaint schedule property in continuation of his predecessors in interest from 23.06.1940. The plaintiff have dug a well and also a latrine on the back of the house the plaintiff has put up a basement for the purpose of constructing a house.

ii) While so a 'B' Memo case was initiated against the father of the plaintiff on 22.06.1994 for 30 aers in R.S.No.6/3. The plaintiff have paid tax for the asbestos house bearing door No.13/51/2 of Pechipparai village Panchayat. The plaintiff and defendants 2 to 5 are in possession and enjoyment of the suit property, a plot left out by the 1st defendant after taking a major portion of 75 cents in R.S.No.6 for the purpose of Periyar Ninaivu Samathuvapuram in memory of periyar at Pechipparai. In the northern portion of the suit property there are two graves of plaintiff's father and his brother. The mother of the plaintiff filed a petition before the Tahsildar on 28.02.2020 for the same purpose. The plaintiff have also sent a suit notice to the 1st defendant on 04.03.2020 and the receipt of the same was acknowledged by the 1st defendant. The 1st defendant have issued pattas for those who are allotted house and house sites. The 1st defendant and the officials under him are giving continuous threat to the plaintiff. His family

including defendants 2 to 5 are residing in the suit item for more than 80 years. The last attempt by the 1st defendant to evict the plaintiff was on 28.02.2020. Hence this suit.

3. BRIEF OF WRITTEN STATEMENT FILED BY THE 1st DEFENDANT IS AS FOLLOWS :-

i) The said Survey No.6/3 of Pechiparai Village having an extent of 0.26.00 Hectares which is classified as Natham Poramboke, Government Poramboke. The plaintiff is the encroacher of the Government Poramboke land B-Memo case was already registered against the plaintiff's father Rajaiyan. The plaintiff's father or plaintiff or defendants 2 to 5 have no right over the plaint schedule property and more property. The plaintiff's father Rajaiyan was in possession of the plaint schedule property and more property for a long period is denied. The plaintiff has encroached about 20 cents of land in the suit schedule property. Further, this defendant is not aware of the date of death of the plaintiff's father . Out of the legal heirs of the plaintiff's father, one house bearing Door No.13-206 was allotted to the 3rd defendant vijayan in the Periyar Memorial Samathuvapuram at Pechiparai. The plaintiff has no right to demand patta since the title is vested with the Government only. The plaintiff's father effected valuable

improvements in the suit property by planting various trees. The plaintiff's father have no right to dig well and put up basement in the plaint schedule property. The plaintiff himself admitted about the B-Memo case registered against his father. The 3rd defendant Vijayan who is the brother of the plaintiff was already allotted free house site patta for the house bearing door No.13-206. The plaintiff including defendants 2 to 5 are residing in the suit item for more than 80 years is absolutely false. The plaintiff have filed this suit with the intention to grab Government land. Hence, this suit is liable to be dismissed.

4. BRIEF OF WRITTEN STATEMENT FILED BY THE DEFENDANTS D2 to D5 ARE AS FOLLOWS :-

The plaintiff's Father Rajayyan was in possession and enjoyment of a specific plot measuring an area of 75 cents in Re-survey No.6 of Pachiparrai Village. He died on 12.02.2020. After his death his right over the property devolved on his heirs including defendants 2 to 5. Now, the plaintiff and defendants 2 to 5 are in possession and enjoyment of the suit property. In the northern portion of the suit property two graves of the plaintiff's father and his brother are still in existence. The plaintiff and defendants 2 to 5 are residing in the suit property for more than 80 years in continuation of the possession of their father. The existence of two graves, one asbestos house

bearing door No. 13/51/2 of Pechipparai village Panchayat. The names found in the voters list, electricity bill, tax receipt, family card produced on the said of the plaintiff are the clear proof that led plaintiff and defendants 2 to 5 are still residing there without any interruption. Hence, this suit is liable to be dismissed.

5. SETTLED ISSUES :-

On the basis of pleadings on both sides, the following issues were framed.

1. Whether the plaintiff is entitled for permanent injunction as prayed for?
2. For what other relief the parties are entitled to ?

6. ADDITIONAL ISSUES :-

1. Whether plaintiff is entitled for the relief of declaration as prayed?

*** For proper and effective adjudication the issues are re-arranged and re-casted under order XIV, Rule 5 of Civil Procedure code.**

1. Whether plaintiff is entitled for the relief of declaration as prayed?
2. Whether the plaintiff is entitled for permanent injunction as prayed for?

3. For what other relief the parties are entitled to ?

7. EVIDENCES :-

To prove the case, on the side of plaintiff's, plaintiff examined himself as PW.1 and Independent witness Mr. Raju was examined as PW.2 and Mr. Veeraputhiran was examined as PW.3 and Ex.A1 to Ex.A34 were marked. On the side of defendants, Mr. Anish (Village Administrative Officer) was examined as DW.1 and Ex.B1 to Ex.B4 were marked.

8. WITH REGARD TO AN ISSUE NO. 1 :-

Both side argued. Written Argument Notes filed on plaintiff side and same is perused. Oral and documentary evidences perused carefully.

Whether plaintiff is entitled for the relief of declaration as prayed?

i) The Pw1 reiterated all the contentions set out in the plaint and sought a relief of declaration, Permanent injunction and other reliefs.

ii) Plaintiff have filed this suit seeking for the relief of declaration of his title over the plaint schedule property by adverse possession. However defendants denies the contention of plaintiff and submits that plaintiff cannot claim for the relief of declaration through adverse possession as prayed. When the plaintiff seeks for the relief of declaration

over the plaint schedule property through adverse possession the initial burden of proof lies upon plaintiff. To prove the plaintiff case, plaintiff examined himself as PW.1 and marked Ex.A1 to Ex.A34 and PW.2 and PW.3 supported the plaintiff's case .

iii) When the plaintiff's claims for the relief of declaration through adverse possession the burden of proof heavily lies upon plaintiff. Here in this case plaintiff seeks for the relief of declaration based on the Ex.A1 'B' Memo tax receipt dated 22.06.1994 issued by the V.A.O. infavour of plaintiffs father. Other than Ex.A1 no other exhibits was adduced to show the possession of plaintiffs and his father over the plaint schedule property from 1995 to 2012 though plaintiff have pleaded that they were in possession from 1940. In general adverse possession against the Government requires proving upon, continuous and hostile possession over the period of 30 years. Thus plaintiff have to initially prove that plaintiff was in continuous and uninterrupted possession over the plaint schedule property for not less than 30 years. On perusal of Ex.A1 'B' Memo the tax receipt issued in the year 1994 to till the filing this suit 2020 the total period of possession of plaintiff was only for 26 years. The contention of plaintiff possession from 1940 cannot be relied as it not supported by any exhibits.

iv) It is also to be noted that no exhibits was adduced for the period of between 1995 to 2012. The prime document relied by the plaintiff in this case is Ex.A1, 'B' Memo tax receipt ("Penal charges for encroachment) is considered as an admission that Government is the owner and the occupant is encroacher. This admission breaks the hostile requirement for claiming adverse possession. 'B' memo is a notice for payment of penal tax for unlawful occupation and it does not confer, create or any evidence or title over the plaint schedule property. Thus once the 'B' memo was issued it means to be permissive possession and not a hostile possession. Though PW.2 and PW.3 have supported the plaintiff's case plaintiff have failed to prove the basic and vital burden that the possession of plaintiff was adverse and not less than 30 years as discussed above. Ex.A2 tax receipt, Ex.A3 electricity bill , Ex.A4 Acknowledgment card, Ex.A5 voters list does not serve any purpose in deciding the dispute in this suit. Ex.A6 to Ex.A10 also does not serve any purpose in deciding this suit. Ex.A11 house tax receipt executed in the year 2019. Ex.A22 also does not serve any purpose as they were created only after the institution of the suit hence it cannot be relied. Moreover the revenue records, tax receipts and electricity bills will not serve any purpose in deciding the declaration of title of the property.

v) Here in this case the title of the plaintiff over the plaint schedule property was itself in dispute. Ex.A25 to Ex.A32 photo copies adduced cannot be relied as they were not supported by certificate mandated under Section 65(B) of IEA/ Section 63 of BSA was not adduced. Ex.A34 is a rough sketch . On the other hand V.A.O. Thiruvattar Mr. Anish was examined as DW.1 and Ex.B1 to Ex.B4 were marked. To prove the plaint schedule property is a Government poramboke land Ex.B2 Adangal for resurvey No.6/3 was adduced and Ex.B3 'A' diary was resurvey No.6/3 was adduced. It is settled principle of law that the burden of proof shifts over the defendants only when the plaintiffs discharged the initial burden lies upon him. Here in this case plaintiff have failed to prove the plaintiff contention that plaintiff was in uninterrupted adverse possession over the plaint schedule property for the period of 30 years by adducing reliable evidence and defendant have also adduced evidence to prove their contention that plaint schedule property is a Government poramboke land not a Natham poramboke land. Though PW.2 and PW.3 have adduced oral evidence to support the plaintiff case it is a settled principle of law that documentary evidence prevails over the oral evidence. Since, the plaintiff have failed to prove the basic requirements to seek for declaration through adverse possession over the plaint schedule property which is a Government

poramboke land as discussed above this court is of considered view that plaintiff is not entitled for the relief of declaration as prayed. Accordingly issue No.1 is answered against plaintiff.

9. ISSUE NO. 2

Whether the plaintiff is entitled for permanent injunction as prayed for?

Since, the issue No.1 is answered against plaintiff and plaintiff have failed to prove their uninterrupted and adverse possession for over 30years by adducing reliable evidence as discussed in detail in issue no 1, this court is of considered view that plaintiff is not entitled for the relief of permanent injunction as prayed. Accordingly issue No.2 is answered against plaintiff.

10. ON ISSUE NO. 3:-

For what other relief the parties are entitled to ?

In the light of above findings and decisions on the preceding issues, this court is of considered view that parties are not entitled for any other reliefs in this suit.

11. **RESULT** :-

In the result, Considering the fact and circumstances of the case, after determination of above issues, in the interest of justice, this suit is dismissed. No costs.

Dictated to the steno-typist and typed by her in computer, corrected and pronounced by me in open court, on this 11th day of March 2026.

Principal District Munsif,
Padmanabhapuram.

Plaintiff's side witnesses :-

1. P.W.1. - Mr.Jeya Raj
2. P.W.2. - Mr.Raju
3. P.W.3.- Mr. Veeraputhiran

Defendants' side witnesses :-

- 1.D.W.1.- Mr. Anish (Village Administrative Officer)

Plaintiff's side Documents :-

| | | | | |
|-------------|---|------------|---|-----------------------------------|
| 1. Ex.A.1 | - | 22.06.1994 | - | Original tax receipt |
| 2. Ex.A.2 | - | -- | - | Original house tax receipt Nos.4 |
| 3. Ex.A.3 | - | 23.01.2020 | - | Original Electricity bill |
| 4. Ex.A.4 | - | — | - | Copy of Aadhaar Card of plaintiff |
| 5. Ex.A.5 | - | — | - | Copy of voters list |
| 6. Ex.A.6 | - | 28.02.2020 | - | Copy of requisition letter |
| 7. Ex.A.7 | - | 28.02.2020 | - | Copy of requisition letter |
| 8. Ex.A.8 | - | 04.03.2020 | - | Copy of legal notice |
| 9. Ex.A.9 | - | -- | - | Original postal receipt |
| 10. Ex.A.10 | - | -- | - | Original Acknowledgment card |
| 11. Ex.A.11 | - | 07.11.2019 | - | Original house tax receipt |

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|-------------|---|------------|---|--|
| 12. Ex.A.12 | - | 24.03.2021 | - | Original house tax receipt |
| 13. Ex.A.13 | - | 10.02.2022 | - | Original house tax receipt |
| 14. Ex.A.14 | - | 24.03.2023 | - | Original house tax receipt |
| 15. Ex.A.15 | - | 11.03.2024 | - | Online Copy of house tax receipt |
| 16. Ex.A.16 | - | 20.09.2024 | - | Online Copy of house tax receipt |
| 17. Ex.A.17 | - | 30.05.2024 | - | Copy of Electricity bill |
| 18. Ex.A.18 | - | 25.07.2024 | - | Online electricity bill |
| 19. Ex.A.19 | - | 01.10.2024 | - | Online Electricity bill |
| 20. Ex.A.20 | - | 25.11.2024 | - | Online electricity bill |
| 21. Ex.A.21 | - | 23.01.2025 | - | Online Electricity bill |
| 22. Ex.A.22 | - | 03.04.2025 | - | Online Electricity bill |
| 23. Ex.A.23 | - | 19.02.2020 | - | Original death certificate of Rajayyan |
| 24. Ex.A.24 | - | 22.08.2024 | - | Original death certificate of Rejinal |
| 25. Ex.A.25 | - | -- | - | Original photo |
| 26. Ex.A.26 | - | -- | - | Original Photo |
| 27. Ex.A.27 | - | -- | - | Original Photo |
| 28. Ex.A.28 | - | -- | - | Original Photo |
| 29. Ex.A.29 | - | -- | - | Original Photo |
| 30. Ex.A.30 | - | -- | - | Original Photo |
| 31. Ex.A.31 | - | -- | - | Original CD. |
| 32. Ex.A.32 | - | -- | - | Original Photo receipt |
| 33. Ex.A.33 | - | -- | - | Copy of family card |
| 34. Ex.A.34 | - | -- | - | Rough sketch |

Defendant's side Documents :-

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|-----------|---|------------|---|---|
| 1. Ex.B.1 | - | 11.11.2025 | - | Online copy of Letter to District collector |
|-----------|---|------------|---|---|

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|-----------|---|----|---|--|
| 2. Ex.B.2 | - | -- | - | Certified copy Resurvey No.6/3 , Adankal |
| 3. Ex.B.3 | | -- | - | Certified copy Resurvey No.6/3 , 'A' register |
| 4. Ex.B.4 | | -- | - | Certified copy of Resurvey plan |

PDM,
Padmanabhapuram.

PDMC, Padmanabhapuram.
O.S.No. 23/ 2020
(CNR.No.TNKK08-000037 - 2020)
Draft/Fair Judgment.
Date: 11.03.2026