

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

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

Wednesday, the 18th day of March 2026

O.S.No. 87/2020`

CNR.No.TNKK08-000151-2020

1. Vaikundamani
2. Chandrakala
Represented by their power holder of
R.Raja Lekshmi

... Plaintiffs

/ Vs /

1.Jayadhas
2.Nagarajan

... Defendants

This suit is coming before me for final hearing in the presence of Mr.S.Raja Sekhar, learned counsel for the Plaintiff and Mr.S. Beslin Jegadeesh, learned counsel for the defendants. 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 permanent injunction restraining the defendants their men or agents from committing any act of waste over 'C' schedule property and other reliefs.

2. THE AVERMENTS IN THE PLAINT IN BRIEF :-

i) The plaint 'A' schedule property and more area having an extent of 54 cents was originally belonged to one Shakkeena Beevi as per gift deed No.1491/1986 dated 09.07.1986. On 11.06.2015 the said Shakkeena Beevi has executed a sale deed infavour of plaintiffs Vaikundamani and Chandrakala as per No. 1609/2015 dated 11.06.2015 to the extent 13 cents out of 54 cents in Re.Sy.No.412/2B. Plaint 'B' schedule property having an extent of 3 cents was originally belonged to one Rajam as per sale deed No.2771/2005 dated 07.11.2005. The said Rajam has executed a settlement deed on 10.09.2013 infavour of 1st plaintiff Vaikundamani as per document No.2203/2013. They are paying land tax and patta also. Thus the plaintiffs got absolute right over the plaint 'A' and 'B' schedule properties. The plaint 'A' and 'B' schedule properties are lying separately with well defined boundaries on all sides. The 1st and 2nd defendants are residing on the southern side of plaint 'B' schedule property.

ii) They jointly requested to the plaintiffs to use some portion on the southern side of 'B' schedule property for Sewerage of waste water from the defendants house. On 01.02.2016 the plaintiffs left some portion on the southern side plaint 'B' schedule property and the defendants agreed to use 'C' schedule pathway to plaint 'A' schedule property on the southern side.

Thus the plaintiffs are using the 'C' schedule property from the date of oral agreement dated 01.02.2016. Now the usage defendants on the southern side of plaint 'B' schedule property it create bad smell to the plaintiffs. Which leads against the public health and it create diseases. The plaintiffs have jointly executed a power of Attorney infavour of his sister of 1st plaintiff namely R.Raja Lekshmi on 21.10.2020 to conduct the case and to do other acts in related to this schedule property. The 'C' schedule property is a pathway on the southern side of 'A' schedule property width of the pathway is about 12 feet. The pathway is used by the plaintiffs and adjacent owners. Now the defendants have planned to close the existing pathway on the eastern side of 'C' schedule property. The defendants due wreck and vengeance 05.10.2020 trying to close the 'C' schedule pathway by timely intervention , it was thwarted by the plaintiffs and their men. Hence, this suit.

3. BRIEF OF WRITTEN STATEMENT FILED BY THE DEFENDANTS ARE AS FOLLOWS :-

i) The alleged 'A' schedule property is having separate boundary and fence on the southern side of the plaint 'A' schedule property there was a barbed wire fence which demarcated the 'C' schedule pathway from the plaint 'A' schedule property. The plaint 'B' schedule property is originally

belonged to one Mariam Seema who purchased the plaint 'B' schedule property through her mother Javahilla Beevi from one Bangajatshi Amma as per the sale deed No.932/1984 dated 10.05.1984. Since, the Mariam Seema was minor at the time of execution of sale deed. The total extent of the property was 36 cents in the above sale deed. The mother of the 1st plaintiff Mrs. Rajam Purchased 'B' schedule property from the said Mariam Seema as per the sale deed No.2771/2005 dated 07.11.2005. The mother of the 1st plaintiff Rajam mentioned the description of property "என் பத்திரப்படி எங்களில் 1-வது நபருக்கு உரிமைப்பட்டதான 36 சென்ட்ஃக்கு கிடப்பும் கைவசப்படி 37 3/4 சென்றில் 34 3/4 சென்று முன்விலை கொடுத்தது போக மீதி கிடப்பு கீழ் குறிப்பிடும் எல்கைக்குள் கொண்டதான 3 சென்று மரங்களோ கட்டிடமோ யாதொன்றும் இல்லாத புன்செய் இடமாகும்" The above description of the property categorically proved that the mother of the 1st plaintiff Rajam and the said Maria Seema have executed a fraudulent and shame document to usurp some area. The mother of the 1st plaintiff Rajam mentioned 1 3/4 cents excess in the above sale deed.

ii) The mother of the 1st plaintiff Rajam has executed a settlement deed infavour of the 1st plaintiff as per the settlement deed No.2203/2013 dated 10.09.2013 the description of property as 3 cents. The plaintiffs already occupied 1 3/4 cents through the deeds as stated supra. The plaintiffs are

encroached some area of the water channel on the southern side and constructed a house within the plaint 'B' schedule property. The water channel is belongs to PWD department. The 'A' schedule property is having separate well defined boundaries on all sides. The 1st and 2nd defendants are residing on the southern side of the plaint 'B' schedule property. The defendants jointly requested to the plaintiffs to use some portion on the southern side of the 'B' schedule property for Sewerage of waster water from the defendant's house. The plaintiffs are also using the water channel for sewerage of waste water from their house.

iii) The 'C' schedule pathway purchased by the 1st defendant by virtue of sale deed has document No.1379/2009 dated 20.05.2009 from one Komala and her daughters 1. Rohini and 2. Komathi. The 'C' schedule property is a patta land of the defendants. The plaintiffs are using the plaint 'C' schedule property from the date of oral agreement dated 01.02.2016. The claims of the plaintiffs are not maintainable under law since the plaintiffs have filed this without asking the declaration instead praying declaration. The injunction simpliciter is bad in law and the plaint is liable to be dismissed in limini. The 1st defendant has given a permission to enjoy the plaint 'C' schedule property to one Paul Nesam and Vijay and Raju, Radha Krishnan, Rajan, Mallika, and 2nd defendant by virtue of different sale

deeds on various dates. After execution of the sale deeds the above said persons are also equally entitled the 'C' schedule property. The usage of the defendants on the southern side of the plaint 'B' schedule property, it create bad smell to the plaintiffs and also leads against the public health and it create decease it utter false and denied.

iv) The defendants are using bibs to the water channel for excrete the rainy water and the same time, the plaintiffs are using the water channel to excrete the waste water and the wastes from the toilet. The barbed wire fence installed the defendants to demarcate the 'C' schedule property. The plaintiffs constructed the house within the plaint 'B' schedule property and they put the gate on the southern side of the plaint 'B' schedule property to reach the 'A' schedule property. The plaint is concerned the defendants have no specific remarks. However, the plaintiffs ought to prove the same respective documents. The story invented by the plaintiffs with a view to form a new pathway and usurp the plaint 'C' schedule property from the defendants. The defendants tried to close a 'C' schedule property on 05.10.2020 is utter false and denied. The boundary, survey number and the description of properties are differs which is purposely mentioned the plaintiffs in order to suppress the real facts. Hence, this suit is liable to be dismissed.

4. SETTLED ISSUES :-

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

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

5. EVIDENCES :-

To prove the case, on the side of plaintiff's, the power holder of plaintiff examined herself as PW.1 and Ex.A1 to Ex.A14 and Ex.C1 to Ex.C4 were marked. On the side of defendants, the 1st defendant examined was examined as DW.1 and one Mr.Chellian was examined as DW.2 and Ex. B1 to Ex.B8 were marked.

The Learned Defendants side counsel submitted the following decisions :-

- 1.Civil Appeal No.2342 of 2017, Executive Officer, Arulmigu Chokkanatha Swamy Koil Trust, Virudunagar. Vs. Chandran & Ors.
2. Civil Appeal No.1382 of 2022, Padhiyar Prahladi Chenaji Vs. Maniben Jagmalbhai (Deceased) through L.R.s and Ors.
- 3.S.A.No.343 of 1996, Chinna Nachiappan & another Vs. PL.Lakshmanan .

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

Written argument notes filed on Defendant side. Plaintiff and defendants side oral argument heard. Decisions relied by defendants counsel perused. Oral and documentary evidences perused carefully.

Whether the plaintiffs are entitled for permanent injunction as prayed for?

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

ii) Plaintiff have filed this suit seeking for relief of permanent injunction against the defendants not to commit any act of waste over the 'C' schedule property. The main contention of the plaintiff is that right to usage of the 'C' schedule pathway property which is only pathway to reach the plaint 'A' schedule property was granted by oral agreement on 01.02.2016 infavour of this plaintiffs. However due to vengeance on 05.10.2020 defendants tried to close the 'C' schedule pathway property which was prevented by this plaintiff by timely interruption and hence this suit was filed for permanent injunction against the plaintiffs. It is settled principle of law that when the plaintiffs pleads for the relief of permanent injunction nor any other reliefs, the initial burden of proof lies upon plaintiffs. To prove the plaintiff's case plaintiff Power agent was examined

as PW.1 and marked Ex.A1 to Ex.A14, Ex.C1 to Ex.C4 were marked. Ex.A1 is the sale deed adduced to prove the title of the plaintiff over the plaint 'A' schedule property having an extent of 13 cents in resurvey No.412/2B . Ex.A2 is the sale deed executed infavour of 1st plaintiff dated 10.09.2013 for the property in Re-survey No.411/13 having an extent of 3 cents. Ex.A1 is the parent document of Ex.A2. However Ex.A2 is a Xerox copy of the sale deed dated 07.12.2005. Ex.A4 to Ex.A9 are the revenue records namely the tax receipt and patta which were adduced to prove the plaintiff possession over the resurvey No.411/13 and 412/2B namely the plaint 'A' and 'B' schedule property.

iii) Thus based on the exhibits it is clear that plaintiff bears title and possession over the plaint 'A' and 'B' schedule properties. Ex.A12 and Ex.A13 the photo copies adduced cannot be relied as it was not supported by the electronic certificate which was mandated under section 65B of IEA/ Section 63 of BSA was not adduced. On the other hand defendants have also not denied the title of possession plaintiff over the plaint 'A' and 'B' schedule property. Here in this case dispute is relating only to the plaint 'C' schedule property having an extent of 3 cents in Resurvey No.412/2B. Here plaintiff seeks only for the relief of permanent injunction to not restrain them from accessing plaint 'C' schedule property. However defendants

denies the entire contention of the plaintiff and defendants that defendants were the title holder of plaint 'C' schedule property. 1st defendant examined himself as DW.1 and Ex.B1 to Ex.B8 were marked through DW.1 and DW.2 supported the case of the defendants. It is settled principle of law that until the plaintiff discharged the initial burden lies upon him. The burden of proof never shifts over the defendants.

iv) Here plaintiff have admitted that plaint 'C' schedule property is the property of the defendants and the right to access the 'C' schedule property as pathway to plaint 'A' schedule property was granted in the year 2016 by oral agreement and also submit that it was used as common pathway. However except PW1 no other independent witness was examined to prove their contention. Moreover defendants have denied the resurvey number pleaded in 'C' schedule property resurvey No.412/2B having an extent of 3 cents as 'C' schedule property. The advocate commissioner have submitted in his report that 'B' schedule property is water way consisting 3 cents as per the document, but area of 'B' schedule property as per lie is 0.635 cents. Commissioner have also submitted in his report that in " the northern side of 'C' schedule property there are two properties. The properties of defendants D1 and D2 the next adjacent property in the eastern side is the 'A' schedule property. The 'B' schedule property is a water way and there is no house at

present in the 'B' schedule property. Similarly 'A' schedule property denoted as property. 'A' schedule property is a farm land it is quadrilateral in shape consisting of full of trees which was around 15 tress and 'A' schedule property does not constructing any building in it.

v) In the southern side adjacent to the 'A' schedule property there is existing 'C' schedule property which is a pathway beginning from the Channel road in the western side and goes beyond 'A' schedule property in the eastern side". As per the commissioner report and plan and evidence of defendants the plaint 'C' schedule property pleaded extent in the plan is entirely different in which shown it was pleaded as 3 cents. However it was disclosed by the commissioner report as 0.635 cents as per lie. By perusing the commissioner report and plan it is observed that 'B' schedule property is a water way of 43.1 length and width 0.5 metre in the west of 0.70 meter in the east with an area of 0.635 cents. Ex.B1 and Ex.B2 are title document infavour of 1st defendant was adduced. On perusal of Ex.B2 to Ex.B8 it is observed that Re-survey Number pleaded in the plaint schedule property resurvey No.412/2B. However the above exhibits adduced is relating to Resurvey No.412/2C. The above exhibits adduced to prove the possession and enjoyment of defendant is relating to resurvey No.412/2C. However plaintiff have pleaded it as Resurvey No.412/2B. Plaintiff have not clarified

the dispute to relating to resurvey number of 'C' schedule property. Plaintiff have admitted that 'C' schedule property is the property absolutely belongs to defendant.

vi) However plaintiff have seek for the relief of permanent injunction against the defendants who were the real owners of the property as per the contention of the plaintiff. It is settled principle of law that injunction cannot be granted against its true owner. Moreover the main dispute in this suit is relating to pathway which was pleaded as 'C' schedule property which plaintiff claims it as common pathway. Since defendants have specifically denied the plaintiffs contention that oral agreement was granted infavour of plaintiffs by this defendant and disputed the 'C' schedule pathway pleaded by plaintiff in this suit. In this suit plaintiffs ought to have seek for the relief of declaration over the pathway pleaded. However plaintiffs have not seeked for the relief of declaration in this suit. It is settled principle of law the burden of proof never shifts over the defendants until the initial burden of was discharged by the plaintiffs. Here in this case plaintiff have specifically pleaded the pathway right over the 'C' schedule property was prayed through oral agreement granted in the year 2016. However plaintiffs have not examined any independence witness to prove his case. It is settled principle of law that plaintiffs have to stand and fall on

his own leg and not to rely upon the weakness of the defendant. However here in this case plaintiff have failed to prove his case that the 'C' schedule property is the pathway granted to the plaintiffs to reach the plaint 'A' schedule property as pleaded and plaintiffs have also failed to seek for the relief of declaration. Moreover defendants have admitted that pathway right over the 'C' schedule property was granted to nearly 6 families through a registered deed but they were not impleaded as parties in this suit nor examined as a witness on plaintiffs side to support the plaintiffs contention 'C' schedule property as a common pathway.

vii) At this Juncture it is pertinent to rely upon the decision of Hon'ble Supreme court in Jharkhand State Housing Board v. Didar Singh and Another (2019) 17 SCC 692 "It is well settled by catena of judgments of this Court that in each and every case where the defendant disputes the title of the plaintiff it is not necessary that in all those cases plaintiff has to seek the relief of declaration. A suit for mere injunction does not lie only when the defendant raises a genuine dispute with regard to title and when he raises a cloud over the title of the plaintiff, then necessarily in those circumstances, plaintiff cannot maintain a suit for bare injunction." Thus based on the above discussion, decision relied above and evidence adduced on both sides this court is of considered view that plaintiffs have failed to prove their case

by adducing cogent and credible evidence and is not entitled for the relief of permanent injunction as prayed. Accordingly issue No.1 is answered against plaintiff .

7. ON ISSUE NO. 2:-

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.

8. 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 18th day of March 2026.

Principal District Munsif,
Padmanabhapuram.

Plaintiff's side witnesses :-

1. P.W.1. - Mrs.Raja Lekshmi

Defendant's side witnesses :-

1.DW.1. -Mr. Jeyadhas

2.DW.2. - Mr.Chellian

Plaintiff's side Documents :-

1. Ex.A.1	-	11.06.2015	-	Certified copy of sale deed No.1609/2015
2. Ex.A.2	-	10.09.2013	-	Certified copy of settlement deed No.2203/2013
3. Ex.A.3	-	07.11.2005	-	Copy of sale deed No.2771/2005
4. Ex.A.4	-	05.10.2025	-	Original land tax receipt
5. Ex.A.5	-	08.07.2019	-	Original land tax receipt
6. Ex.B.6	-	05.10.2020	-	Original land tax receipt
7. Ex.B.7	-	25.06.2015	-	Original land tax receipt
8. Ex.B.8	-	05.10.2020	-	Online patta
9. Ex.B.9	-	05.10.2020	-	Online patta
10. Ex.B.10	-	21.10.2020	-	Original general power of attorney.
11. Ex.B.11	-	--	-	Rough sketch
12. Ex.B.12	-	--	-	Original Photo Nos.4
13. Ex.B.13	-	--	-	Original Photo
14. Ex.B.14	-	09.06.2025	-	Original land tax receipt Nos.2

Defendants' side Documents :-

1. Ex.B.1	-	20.05.2009	-	Certified copy of sale deed No.1379/2009
2. Ex.B.2	-	20.05.2009	-	Certified copy of sale deed No.1386/2009
3. Ex.B.3	-	12.09.2025	-	Online patta
4. Ex.B.4	-	17.11.2014	-	Original land tax receipt
5. Ex.B.5	-	09.09.2025	-	Original land tax receipt

6. Ex.B.6	-	—	-	Online encumbrance certificate
7. Ex.B.7	-	20.05.2009	-	Certified copy of sale deed No.1381/2009
8. Ex.B.8	-	—	-	Original photos and CD

Court Documents :-

1. Ex.C.1	-	—	-	Commissioner's report
2. Ex.C.2	-	—	-	Commissioner's plan
3. Ex.C.3	-	—	-	Commissioner's Plan
4. Ex.C.4	-	—	-	Commissioner's Plan

PDM,
Padmanabhapuram.

PDMC, Padmanabhapuram.
O.S.No. 87/ 2020
(CNR.No.TNKK08-000151 -2020)
Draft/Fair Judgment.
Date: 18.03 .2026