

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

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

Friday, the 17th day of July 2026

O.S.No. 105/2024

CNR.No.TNKK08-000192-2024

Joice Mettilda

.... Plaintiff

/ Vs /

Rossammal

... Defendant

This suit is coming before me for final hearing in the presence of Mr.S.Yesuraja, learned counsel for the Plaintiff and Mr.M.Murugan, Learned counsel for the defendant. 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 over the plaint schedule property, Permanent injunction restraining the defendant from committing any act others to in the plaint schedule property and other reliefs.

2. THE AVERMENTS IN THE PLAINT IN BRIEF :-

i) A property of 5 cents was originally belonged to the husband of plaintiff namely Stanislaus as per settlement deed No.1742/2009 dated 20.07.2009 to the extent of 5 cents comprised in Re.SY.No.172/19 and 172/20 of Kappiyarai 'A' village . The said Stanislaus died on 22.01.2016 leaving behind the plaintiff alone the legal heirs of deceased Stanislaus. The plaintiff schedule property is in possession and enjoyment of plaintiff after the death of her husband Stanislaus. The revenue authority issued a legal Heirship certificate mentioning that the defendant also the legal heirs of deceased Stanislaus. The plaintiff alone got absolute right over the above mentioned property. The plaintiff is alone enjoying this property since 2016 onwards. The defendant have no right title or possession over the schedule property. Now taking advantage of legal heir certificate the defendant is trying to trespass into the schedule property due to some misunderstanding between plaintiff and defendant she has no right trespass into the schedule property. On 10.10.2024 the defendant is trying to trespass in to the plaintiff schedule property, by timely intervention, it was thwarted by the plaintiff and their men. Hence this suit.

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

i) The scheduled property and other portions originally belonged to Anthonimuthu Nadar who purchased the same as per sale deed No.1297 dated 28.07.1994 through palliyadi Sub Registry. Whiles, Anthonimuthu Nadar executed the settlement deed No.1742 dated 20.07.2009 in favour of his son Stanislaus, in respect of the plaint schedule property having 5 cents. The defendant is the mother of Stanislaus. Stanislaus, the son the defendant and the husband of the plaintiff died at Maldievs on 22.01.2016 leaving behind the plaintiff and the defendant as his legal heirs. At the time of death of Stanislaus, the defendant arranged to bring his body to the native place and buried him by spending more than Rupees one lakh. The plaint schedule property was in the possession and enjoyment of the defendant. Late Stanislaus died issueless and no children born to the plaintiff. On the death of Stanislaus his widow the plaintiff gets 1/3rd right only over the scheduled property. The other 2/3 goes to the defendant, mother as there is no other legal heirs. Actually the property is in the possession and enjoyment of the defendant only.

ii) The plaintiff have also right over 1/3rd share in the scheduled property. There is no necessity for the defendant to trespass into the

schedule property. Nothing happened on 10.10.2024 as alleged. The defendant has no objection in getting 1/3share over the scheduled property by the plaintiff. Her right is limited only in respect of 1/3share and hence the prayer for declaration over the entire schedule property is not allowable. The alleged date of attempt of trespass is an imaginary date fixed for filing this suit. The plaintiff is not entitled to get an injunction since the defendant is also a co-owner of the schedule property. 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 plaintiff is entitled for the relief of declaration as prayed?
2. Whether the plaintiff is entitled for the relief of permanent injunction as prayed?
3. To what other reliefs plaintiff is entitled?

5. EVIDENCES :-

To prove the case, on the side of plaintiff's, the plaintiff examined herself as PW.1 and Ex. A1 to Ex. A7 were marked. On the side of defendant, defendant examined herself as DW.1 and no documents were marked.

6. WITH REGARD TO AN ISSUE NO. 1 and 2 :-

Heard both side arguments. Oral and documentary evidences perused carefully.

Whether the plaintiff is entitled for the relief of declaration, permanent injunction 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.

Indian Succession Act 1925:

Section 33 of Indian Succession Act 1925 - Where intestate has left widow and lineal descendants, or widow and kindred only or widow and no kindred. Where the intestate has left a widow

(a) if he has also left any lineal descendants, one -third of his property shall belong to his widow and the remaining two -thirds shall go to his lineal descendants, according to the rules hereinafter contained,

b) 1[Save as provided by section 33A] if he has left no lineal descendant, but has left persons who are of kindred to him, one half of his property shall belong to his widow, and the other half shall go to those who are kindred to him, in the order and according to the rules hereinafter contained,

c) if he has left none who are of kindred to him, the whole of his property shall belong to his widow.

ii) The main contention of the plaintiff is that plaintiff seeks for the relief of declaration and injunction over the plaint schedule property based on the settlement deed No.1742/ 2009 executed by plaintiff's father in law infavour of her deceased husband name Stanislaus S/o.Anthonymuthu Nadar. It is a settled principle of law that when plaintiff seek for the relief of declaration and permanent injunction the initial burden of proof lies upon plaintiff. To prove the plaintiff's case, plaintiff examined herself as PW.1 and marked Ex.A1 to Ex.A7. On perusal of Ex.A1 to Ex.A4 it is clear that the plaint schedule property which was executed by plaintiff's father in law infavour of his deceased husband bears the title and possession over the plaint schedule property. The revenue records lies upon the husband deceased Stanislaus. On perusal of Ex.A5 the legal heirs certificate it is observed that plaintiff and defendant were stated as the legal heirs in the legal heirs certificate. Even though defendant relied upon the Ex.A5 that legal heirs certificate issued by the government itself clearly shows that plaintiff and defendants were the legal heirs deceased Stanislaus.

iii) On the other hand defendant denies the contention of the plaintiff and submit that as plaintiff deceased husband Stanislaus died intestate and this defendant is also entitled to a share as defendant is the mother of the deceased son Stanislaus and no legal heirs was left. To support the

defendants case defendant examined herself as DW.1 and no exhibits were marked through PW.1. Based on both sides evidence it is clear that the prime documents relied by the plaintiff is Ex.A1 settlement deed executed by plaintiff's father in law in favour of deceased husband Stanislaus. The above said Stanislaus died leaving behind plaintiff and his mother as legal heirs and no other legal heirs were available for the deceased Stanislaus. Since there is no specific transfer of title through any deed in favour of this plaintiff and Stanislaus died intestate as undivided defendant is also entitled for her share over the plaint schedule property as per section 33 of Indian succession act. Even though this suit was filed for mere injunction against the defendant based on the settlement deed Ex.A1 since the property was not partitioned between plaintiff and defendant and defendant also a legal heir of the deceased Stanislaus and property was undivided defendant is entitled for her share over the plaint schedule property.

iv) Thus it is clear from above discussion that both plaintiff and defendant were share holders over the plaint schedule property and it is settled principle of law that injunction cannot be granted against its true owner. As discussed above the entire plaint schedule property belongs to plaintiff's deceased husband Stanislaus and same was not partitioned till date. Hence plaintiff cannot seek for the relief of declaration and injunction over the

plaint schedule property without effecting partition. After considering the above exhibits and above discussion, this court is of considered view that plaintiff is not entitled for the relief as declaration and injunction as prayed. Accordingly issue No.1 and 2 are answered against plaintiff.

7. ON ISSUE NO. 3

To what other reliefs plaintiff is entitled?

In the light of above findings and decisions on the preceding issues, this court is of considered view that plaintiff is 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 17th day of July 2026.

Principal District Munsif,
Padmanabhapuram.

Plaintiff's side witnesses :-

1. P.W.1. - Mrs.Joice Mettilda

Defendant's side witnesses :-

1. DW.1 .- Mrs. Rosammal

Plaintiffs' side Documents :-

1. Ex.A.1	-	20.07.2009	-	Original settlement deed No.1742/2009
2. Ex.A.2	-	26.12.2012	-	Original land tax receipt
3. Ex.A.3	-	18.07.2019	-	Original land tax receipt
4. Ex.A.4	-	28.07.2021	-	Original land tax receipt
5. Ex.A.5	-	16.02.2022	-	Copy of legal heirs certificate
6. Ex.A.6	-	03.02.2026	-	Online patta
7. Ex.A.7	-	03.02.2026	-	Online patta

Defendant's side Documents

-Nil -

P.D.M.,
Padmanabhapuram.

PDMC, Padmanabhapuram.
O.S.No. 105/ 2024
(CNR.No.TNKK08-000192-2024)
Draft/Fair Judgment.
Date: 17.07.2026