

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

**Present: Tmt, S. Immaculate Buddha, B.Sc., L.L.M,
Additional District Munsif.**

Monday, the 9th day of June 2025

O.S.No. 148/2023

CNR.No.TNKK08-000260-2023

R.Muthukumar

... Plaintiff

/ Vs /

1. Jababai
2. Arulkumar
- 3.Pushpalatha
4. Sunitha

... Defendants

This suit is coming before me for final hearing in the presence of Mr.T.J.Panneer Selvam, learned counsel for the Plaintiff and defendants called absent and set exparte. Upon hearing the Plaintiff counsel and on perusal of records having stood over for consideration till this day, this court delivers the following :-

JUDGMENT

Suit is filed for demarcation of plaint 'A' schedule property from the property of defendants after fixing the western limits of the plaint 'A' schedule property with reference to re-survey plan and title deed and for putting up of western boundary on the demarcating western

boundary lines of the plaint 'A' schedule property, Recovery of plaint 'B' schedule property (which is the part of plaint 'A' schedule property) from the 1st defendant and declare and other reliefs.

2. THE AVERMENTS IN THE PLAINT IN BRIEF :-

i) The plaint 'A' schedule property is having an extent of 88 cents (35.6131 ares) correlated into Re-survey No.95/1B belongs to the plaintiff. The plaintiff purchased the said property on 18.02.2009 vide document No.459/2009. The plaintiff paid land tax to the government and obtained patta also in his favour. The 1st defendant is the western side owner of the plaintiff's plaint 'A' schedule property. The 1st defendant got right over 19.50 ares in Re-survey No.95/1A . The 1st plaintiff never got any right over the plaint 'A' schedule property.

ii) While so, on 20.08.2023 the 1st defendant unlawfully encroached 11 cents on the western side of plaint 'A' schedule property and removed the western side boundary stones and cultivated tapioca and plaintain trees in that area. On 20.08.2023 itself the plaintiff presented a petition before Thiruvattar Police. On the other hand the Thiruvattar Police enquired the matter and advised the plaintiff and 1st defendant . The 1st defendant also amenable for measure the property

with Taluk Surveyor. On 25.08.2023 the plaintiff application to the Thiruvattar Taluk Office to demarcate his plaint 'A' schedule property, Thiruvattar Taluk Surveyor fix the date for measure the plaint schedule property on 21.11.2023 and issued notice to the plaintiff and defendants.

iii) On 21.11.2023 the Thiruvattar Taluk Surveyor measured the plaint schedule property and found that the 1st defendant encroached the plaint 'B' schedule area having an extent of 11 cents. On 21.11.2023 the 1st defendant and her men not permitted the Taluk surveyor to put the boundary stones on the western demarcate line of the plaint 'A' schedule property. The area encroached on the western side of plaint 'A' schedule property is having an extent of 11 cents in Re.Sy.No.95/1B of Aruvikarai village, Thiruvattar Taluk is scheduled as plaint 'B' schedule property.

iv) The area encroached by the 1st defendant on the western side of plaint 'A' schedule property which is scheduled as plaint 'B' schedule property is to be declared as the property of plaintiff and it is to be recover from the 1st defendant. The defendants 2 to 4 are the adjutant southern side owners of plaint 'A' schedule property. Hence, this suit.

3. The defendants called absent and set ex-parte.

4. **EVIDENCES:-**

On the side of plaintiff, the plaintiff was examined as P.W.1 and Exhibits A-1 to A-10 and C1, C2 were marked.

5. **DISCUSSION AND ANALYSIS:-**

Plaintiff side Argued.

Oral and Documentary Evidences perused carefully.

i) Plaintiff 's side the plaintiff was examined as PW1. The PW1 reiterated all the contentions set out in the plaint and sought a relief of demarcation, recovery of possession and other relief.

ii) On the perusal sale deed Ex A-1 the plaintiff purchased the plaint schedule property from one Mohan raj which is an extent of 88 cents in resurvey no 95/1B on 18-2-2009. Ex A-2 patta and Ex A-3 land Tax Receipt shows the plaintiff is in possession of the plaint A schedule property.

iii) The 1st defendant is having the property in the western side of the plaint A schedule property and it's resurvey no 95/1A. Ex A-4 is the patta infavour of the D1. So D1 has no right on the Re.S No 95/1B.

The defendants D2 to D4 are the formal parties and they have the property on the southern side of plaint A schedule property.

iv) The plaintiff stated in his pleading, on 20-08-2023 the 1st defendant unlawfully encroached 11 cents on the western side of plaint A schedule property and removed the western side boundary stones and cultivated tapioca and plantain trees in that area. Immediately on 20-08-2023 itself the plaintiff presented a petition before Thiruvattar police and they enquired the matter and advised that the dispute is civil in nature, so measure the property with taluk surveyor and they not issued any receipt for the complaint. Even though no evidence adduced for the encroachment of 11 cents and the complaint to the police, the plaintiff has established his title over the plaint schedule property by the sale deed 459/2009 Ex A1 and proved the possession by Ex A2 patta. By Ex A1 sale deed the plaintiff is entitled for 88 cents in the Re. S.No 95/1B.

v) The plaintiff wanted to demarcate his plaint A schedule property as per the sale deed Ex A-1 so he applied for that in Thiruvattar Taluk Office which is Ex A-6 and the e-challan for the demarcation is the Ex A-7 which is paid in favour of commissionerate of survey and settlement. From the Thiruvattar Taluk office a postal

card Ex A-8 was sent on 18-11-2023 to the plaintiff in which 21-11-2023 was fixed for the demarcation and for fixing the boundary of plaintiff A schedule property by the taluk surveyor. As per the plaintiff version, on the fixed date the taluk surveyor found, the B schedule property was encroached by the 1st defendant and she not allowed taluk surveyor to fix the boundary stone on the western side of plaintiff schedule property. So this suit is filed by the plaintiff for demarcation, declaration and recovery of possession.

vi) Ex A-6 A-7, A-8 shows the plaintiff applied for demarcation in Thiruvattar Taluk Office, payment also made and the Taluk Surveyor also fixed the date to measure the property. Eventhough the procedure was properly followed, Taluk Surveyor could not demarcate and fix the boundary stones. So there is some interference in demarcation is inferred by this court. The plaintiff was unsuccessful in demarcating the plaintiff schedule property through the Taluk Surveyor. So the plaintiff comes with this suit for demarcation and declaration and recovery of possession.

vii) The Advocate commissioner was appointed and he measured the plaintiff's property as per the resurvey plan and plaintiff's document Ex A1 with the help of qualified surveyor. By the commissioner report

and plan Ex C-1 and Ex C-2 the plaintiff A schedule property in R.S.No 95/1B is plaintiff's property and the western boundary of the plaintiff A schedule property is 'DCB' as shown in the Ex C2.

viii) The 1st defendant's property is also measured by the commissioner as per the resurvey plan. The 1st defendant has 48.165 cents in resurvey no 95/1A and her property is identified as 'BCDIJKLMB' in the commissioner plan Ex C2.

ix) The commissioner in his report stated that there is encroachment in the plaintiff A schedule property and it is about 7.713 cents on the western side of plaintiff's property. The southern side of plaintiff A schedule property is also measured by the commissioner as per the resurvey plan with the help of surveyor which is 'AB' as shown in the Ex C2. The 2nd defendant to 4th defendant property in the resurvey no 95/3 is also measured by the commissioner. There is no dispute on the southern side. Finally the demarcating line BCD demarcates the plaintiff's and 1st defendant's property. The plaintiff is entitled for the relief of demarcation on the western side of the plaintiff A schedule property.

x) The plaintiff's 7.713 cents was encroached by the 1st defendant

as per the commission report. The plaintiff has totally 88 cents as per the sale deed Ex A1 and commissioner report so the plaintiff is entitled for the relief of declaration of plaint A schedule property situated in the resurvey no 95/1B and he is entitled for recovery of encroached portion on the western side of his property.

6. RESULT :-

In the result, suit is decreed,

i) by granting a decree of demarcation on the western side of plaint A schedule property,

ii) by granting declaration and recovery of possession of encroached portion on the western side of plaint A schedule property,

iii) The commissioner report and plan to be appended with decree. No cost.

Dictated to the steno-typist and typed by her in computer, corrected and pronounced by me in open court, on this 09th day of June 2025.

Additional District Munsif
Padmanabhapuram.

Plaintiff's side witnesses :-

1. P.W.1 -Mr.Muthukumar

Plaintiff's side Documents :-

1. Ex.A.1	-	18.02.2009	-	Certified copy of sale deed No.459 of 2009
2. Ex.A.2	-	25.08.2023	-	Online patta
3. Ex.A.3	-	07.09.2022	-	Original land tax receipt
4. Ex.A.4	-	29.08.2023	-	Online patta
5. Ex.A.5	-	09.12.2023	-	Online patta
6. Ex.A.6	-	25.08.2023	-	Online Acknowledgment receipt
7. Ex.A.7	-	28.08.2023	-	Copy of E.chellan payment receipt
8. Ex.A.8	-	18.11.2023	-	Original postal letter card issued by Thiruvattar Taluk surveyor
9. Ex.A.9	-	18.09.2023	-	Re-survey plan
10. Ex.A.10	-	18.12.2023	-	Copy of guide line value certificate

Defendants' side witnesses and documents :-

-Nil -

Court Documents :

1. Ex.C.1	-	--	-	Commissioner's Report
2. Ex.C.2	-	—	-	Commissioner's plan

ADM,
Padmanabhapuram.

ADMC, Padmanabhapuram.
O.S.No. 148/ 2023
(CNR.No.TNKK08-000260-2023)
Draft/Fair Judgment.
Date: 09.06.2025.