

TNKK150008252023



IN THE COURT OF THE SUBORDINATE JUDGE, ERANIEL

**Present : Thiru. R. Karl Marx, B. L.,
Subordinate Judge, Eraniel**

Monday, the 13th day of July 2026

**Original Suit No.56/2023
(CNR No.15-000825-2023)**

Heema Rosy

.. Plaintiff

Vs

1. Philominal
2. Mary
3. V.Ayyappan
4. Wilson

.. Defendants

This suit came up on 06.07.2026, for final hearing before me in the presence of Mr. S. Suresh Kumar Counsel for the Plaintiff and Mr. A. Jegan Lall Counsel for the 1st Defendant and Mr. V. Purushothaman Counsel for 2nd defendant, and defendants 3 and 4 were called absent and set exparte and written arguments notes filed by the plaintiff's counsel and upon hearing the argument of plaintiff and 1st and 2nd defendants and after perusing all the available records and having stood over for consideration till this day, and this Court delivered the following:-

Judgment

The suit has been filed for under section 26, Order VII Rule 1 of CPC.
for,

A.Decree for cancellation of impugned sale deed made by the 2nd defendant in favour of the 1st defendant through registered sale deed No.1058/2023 dated 23.04.2023.

B. Decree for permanent injunction, against the defendants, from in anyway interfering with peaceful possession enjoyment of the suit property in any manner whatsoever, except due to process of law.

C) Decree the defendants to pay the costs of this suit.

2. The brief averments made in the plaint are as follows:

The plaintiff is a house wife and her husband is a coolie worker, and they had two children, they are residing in the suit schedule property for the past one year. The 2nd defendant claimed to be an absolute owner of the immovable property, with the house situated at re survey No.331/11 and 331/12 to an extend of 4.183 cents, having door No.11-25A, of Reethapuram village, Kalkulam Taluk, in Kanyakumari District, where the plaintiff resides presently along with her family. The said property was allegedly purchased by the 2nd defendant through the sale deed No.1510/1998, but it is a bogus transaction. The sale deed was executed by the 2nd defendant mother for consideration of Rs. 5,257/- and no consideration was passed. Hence, the suit property is an ancestral property, where the plaintiff and the 2nd defendant resided together till her marriage. The plaintiff recently came to know that, the 1st defendant frequently visited the house, and the 2nd defendant sold the suit property to the 1st defendant on 12.04.2023, in doc. No. 1058/2023, for the alleged consideration of Rs. 5,08,291/-. Due to the plaintiff family financial constrain, they are residing in the suit property from April 2022, with the permissive possession, knowledge and consent of the 2nd defendant as well as with the knowledge of the 1st defendant. But suppressing the above, the sale deed was created as if, the possession was handed over to the 1st defendant by the 2nd defendant and the same is false. Therefore, the sale deed is not valid, and no consideration was passed. The 2nd defendant had no valid title to sell the property, the document is hit by benami transaction. The 2nd defendant obsessed by the 1st defendant, by taking control to execute the sale deed. The plaintiff issued a notice dated 20.05.2023, to the 1st and 2nd defendants for

which the 1st defendant issued a reply denying the possession of the plaintiff and trying to dis possess the plaintiff. The plaintiff is paying electricity charges for the past 12 months, and it will prove the possession of the plaintiff. The defendants 1 and 2 were recognized the possession of the plaintiff, the 3rd and 4th defendants are attesting witness. The defendants 1 and 2 were colluded to cheat the plaintiff and trying to evict her, therefore, the sale deed executed by the 2nd defendant in favour of the 1st defendant dated 12.04.2023, is liable to be cancelled and prayed for permanent injunction, against the defendants restraining them from disturbing the possession and enjoyment of the plaintiff.

The brief averments made in the written statement filed by the 1st defendant are as follows:

3. The suit schedule property originally belonged to the 2nd defendant who is the mother of the plaintiff and the 2nd defendant alone residing in the said property. The suit property is not an ancestral property. The suit property purchased by the 2nd defendant through the sale deed dated 28.10.1998, in Document No. 1501/1998, for valid sale consideration. At the time of purchase, the suit property was vacant, and the 2nd defendant constructed a house, and obtained water and electricity connection as such the 2nd defendant is an absolute owner of the suit property. The 2nd defendant is paying revenue tax, house tax and other charges in her name. The 2nd defendant intends to sell the suit property, and the 1st defendant approached her to purchase the property for the sale consideration of Rs. 5,08,291/-, and the same was purchased through the sale deed dated 12.04.2023. The 2nd defendant is a competent person to alienate the property and the 1st defendant has purchased after scrutinizing the records. After the execution of sale deed, the 2nd defendant vacated the house and handed over the key to the 1st defendant. The 1st defendant mutated revenue records in her name, thereafter, the plaintiff in order to harass the 1st defendant break opened the lock and trespassed into

the house, but not vacated therefore, the 1st defendant lodged a police complaint to the Colachel Police station. The allegation made by the plaintiff, that she is a permissive occupant are false. All other allegations are denied as false and prayed for dismiss.

The brief averments made in the written statement filed by the 2nd defendant are as follows:

4. The plaintiff is the daughter of the 2nd defendant, and she married already. The plaintiff is not residing in the suit property with her family. The purchase of the suit property by the 2nd defendant was perfectly valid with valuable consideration. The allegation made by the plaintiff, that due to defeat some other rival claims, the property was transferred are baseless. The registered sale deed dated 12.04.2023, is a valid for valuable consideration. The plaintiff has no right to claim the property, and she is not a competent person to question the sale. After the sale, the possession was given to the 1st defendant, the alleged possession is unsustainable in law. No injunction can be granted against the real owner and prayed for dismiss.

5. The 3rd and 4th defendants were set exparte on 30.06.2023.

6. The following Issues were framed for trial :

1. Whether the plaintiff is in possession of the suit property ?
2. Whether the plaintiff is entitled to the relief of cancellation of document namely sale deed dated 12.04.2023?
3. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for ?
4. To what other relief, is the plaintiff is entitled ?

Oral and Documentary evidence :

7. On behalf of the plaintiff, the plaintiff was examined as PW1 and Ex.A1 and A7 were marked and on behalf of the defendants 1 and 2, the 1st defendant was examined as DW1, and Mr. Samuvel Raj, was examined as DW2 and Ex. B1 to B8 were marked.

Arguments advanced by the parties respectively:

8. The learned counsel for the plaintiff would submit that, the suit schedule property has been purchased by the 2nd defendant, from her mother without sale consideration as such the sale was not valid and the suit property is an ancestral property of the plaintiff, therefore, the 2nd defendant had no right over the suit schedule property, to alienate. The 2nd defendant who sold the suit property, on 12.04.2023, in document No.1058/2023, is also without sale consideration and without right over the property, is not a valid sale. Apart from the above, a bogus sale deed was created as if, the possession was handed over to the 1st defendant, when the plaintiff is in possession of the suit schedule property with the consent and knowledge of the 2nd defendant as well as with the knowledge of the 1st defendant as permissive occupant. The sale was known to the plaintiff, later and it was questioned through the notice, but, the 1st defendant has falsely denied the possession. The plaintiff is in possession of the suit property from April 2022, therefore, in order to substantiate the plaintiff's case, the plaintiff was examined as PW1, Ex. A1 to A7 were marked and prayed for cancellation of sale deed as well as permanent injunction from disturbing the possession.

9. The learned counsel for the 1st defendant would submit that she had purchased the suit schedule property from the 2nd defendant with the valid consideration and after purchasing the suit property, the possession was given to the 1st defendant, as well as key of the house handed over to the 1st

defendant, when the 1st defendant was closed for repair works after mutating revenue records in her name, the plaintiff who is the daughter of the 2nd defendant, with an intention to harass the 1st plaintiff break opened the lock, and trespassed into the house and stayed with her family and it was noticed by the 1st defendant and requested her to vacate, but not vacated, therefore, the 1st defendant lodged a police complaint and again lodged an another complaint, but not vacated. All the allegations about the right to sell and consideration are baseless. The 1st defendant examined herself as DW1 relevant documents were marked as Ex. B1 to B8 and another witness was examined to prove the sale consideration and prayed for dismiss.

10. The learned counsel for the 2nd defendant would submit that, the 2nd defendant had purchased the suit property from her mother, by way of proper sale consideration and thereafter, she constructed a house and sold the suit schedule property along with the house to the 1st plaintiff, on proper sale consideration by way of sale deed dated 12.04.2023, in document No.1058/2023. The 2nd defendant is an absolute owner of the suit property and having right to sell, and the sale made by her in favour of the 1st defendant was valid. Possession of the suit property was handed over to the 1st defendant, and the illegal possessor is not entitled to the relief of permanent injunction against the real owner and prayed for dismiss.

Answer to issues No. 1 to 3

11. Heard the arguments advanced by the learned counsel for the parties respectively and perused entire records carefully. On perusal, it is found that the plaintiff is the daughter of the 2nd defendant, has filed the above suit, against the defendants. The 1st defendant is the purchaser of the suit property from the 2nd defendant. The 2nd defendant is the seller and mother of the plaintiff. The 3rd and 4th defendants are attesting witnesses in the sale deed which is under challenge and sought for cancellation.

12. The case of the plaintiff is that, the suit property has been purchased by her mother through the sale deed dated 28.10.1998, from her mother without sale consideration, is not a valid, sale, therefore, the suit property is an ancestral property and the plaintiff mother had no right to sell the suit property to the 1st defendant. Apart from the above, no valid sale consideration was passed, therefore, the sale itself is not valid and the bogus sale deed was created stating that the possession was handed over to the 1st defendant when the plaintiff along with her family are in possession of the suit property. Inorder to substantiate the plaintiff case, the plaintiff was examined as PW1 and she herself filed her proof affidavit, reiterating the averments contained in the plaint. Certified copy of the sale deed dated 28.10.1998, stands in the name of the 2nd defendant was marked as Ex.A1. Certified copy of the sale deed executed by the 2nd defendant in favour of the 1st defendant dated 12.04.2023, was marked as Ex. A2. Copy of the notice issued by the plaintiff to the 1st and the 2nd defendants, claiming that the plaintiff is in possession of the suit property for the past one year, and she came to know, about the sale deed registered infavour of the 1st defendant dated 12.04.2023, and it is found from the Ex.A2, that the possession was handed over to the 1st defendant, when the plaintiff was in possession of the suit property, therefore, the sale was not valid and no consideration was passed and called upon the 1st and 2nd defendants not to disturbed her, was marked as Ex. A3. Acknowledgment card was marked as Ex.A4, reply notice issued by the 1st defendant through his advocate that she had purchased the property with the valid consideration and possession was taken, thereafter mutated revenue records in her name. The plaintiff took illegal possession was marked as Ex.A5. Electricity receipt dated 25.09.2023, was marked as Ex.A6. Electricity payment receipt dated 22.01.2024 was marked as Ex.A7.

13. All the above would show that, the suit schedule property purchased by the 2nd defendant through Ex.A1, sold after construction of the house to the 2nd defendant, through the Ex. A2, and it was questioned by the plaintiff through Ex.A3, stating that no consideration was passed and bogus sale deed was created as if the possession was handed over the 1st defendant and the same was denied by the 1st defendant through the reply.

14. The PW1, during her cross-examination admits that, their grandmother had executed a sale deed in the year 1998, when the plaintiff was 13 years old and she had no knowledge about the said document. She also admits that, after the said purchase her mother is in continuous possession of the suit property by paying tax. The evidence of the PW1, it self, is clear that she is a minor when the suit property has been purchased by the 2nd defendant. Therefore, she cannot say that no valid consideration was passed, while executing the sale deed in favour of the 2nd defendant.

15. It is clear from the Ex.A1, the 2nd defendant had purchased the suit property for consideration from her mother, on 28.10.1998, and it was not challenged by the vendor of the 2nd defendant or any other person, within the period of limitation, therefore, the contention made by the plaintiff that the above sale, made in favour of the 2nd defendant, without valid consideration is not supported by any proof. Therefore, the contention of the plaintiff, that the suit property is an ancestral property is not having any substance. Therefore, the 2nd defendant became an absolute owner of the suit property and she had title over the suit schedule property, as it is not an ancestral property of the plaintiff.

16. The plaintiff has stated in her plaint that she came to the suit property with the knowledge and consent of the plaintiff during April 2022, and the 1st defendant had knowledge about the permissive occupation of the

plaintiff. Ex. A2 would show that, the suit schedule property was sold to the 1st defendant by the 2nd defendant on 12.04.2023. The main allegation made by the plaintiff is that when she was in possession of the suit schedule property without her knowledge, it was sold as if the possession was handed over to the 1st defendant. The possession of the plaintiff is disputed by the 1st defendant stating that at the time of purchase, the plaintiff was not in possession and later, the plaintiff trespassed into the suit schedule property. In order to decide the possession of the plaintiff, the PW1 during her cross examination stated that "நான் எனது தாயார் ஒப்புதலுடன் 02.10.2022 ல் வழக்கு பட்டிகை சொத்தில் குடியேறினேன். அந்த தேதியில் குடியேறியதை காட்டுவதற்கு ஆவணங்கள் இல்லை. ஆதார் அட்டை 15.06.2024 வழங்கப்பட்டுள்ளது என்றால் சரிதான். எனது முதல் மகன் 8-ம் வகுப்பு. 2024 முதல் நாஞ்சில் கத்தோலிக்க பள்ளி வழுதலம்பள்ளத்தில் படிக்கிறார். 2022 ல் எனது மகன் APJM பள்ளி காக்கவிளையில் படித்தான். நான் செலுத்திய மின் கட்டணம் எனது தாயாரின் பெயரில் உள்ளது. அந்த ரசீதுகள் 24.01.2024 பிலோமினாள் பெயரில் உள்ளது என்றால் சரிதான். வழக்கு பட்டிகை சொத்தில் எனக்கு உரிமை எதுவும் கிடையாது என்றால், அது என் பாட்டி சொத்து".

17. Though, the plaintiff has stated in her plaint that due to her family situation she came to the suit property during April 2022, as a permissive occupant along with her family, but during her cross-examination, she had stated that she came to the suit property on 02.10.2022.

18. On behalf of the 1st defendant, the 1st defendant was examined as DW1, she stated that, she had no other document to prove the purchase except Ex.B5. "நான் பணம் கொடுத்ததை சியாம் மற்றும் சாமுவேல் பார்த்தார்கள். பத்திரம் பதிவு செய்து கிரய தொகையை நான் கொடுத்தபோது என்னிடம்

வீட்டின் சாவியை கொடுத்தார்கள். அப்போது வீட்டை நான் திறந்து பார்த்தேன். பின்னர் 5 நாட்கள் கழித்து பெயின்டிங் செய்வதற்காக அந்த வீட்டிற்கு சென்றேன், அப்போது வாதி அந்த வீட்டிற்குள் இருந்தார்".

19. One. Mr. Samuvel raj was examined as DW2 where he deposed that 1 ம் பிரதிவாதி, 2 ம் பிரதிவாதியிடம் ரூ.5,08,291/- சியாமுடைய வீட்டில் வைத்து கொடுத்தது மாலை நேரம்.

20. The evidence of DW1, relating to the sale, consideration was made in the presence of Sam and Samuvel, it was supported by the DW2, therefore, the contention of the plaintiff that no valid sale consideration was passed is not supported by any proof, whereas, the evidence of DW1, and 2 are clear about the payment of sale consideration. Apart from the above, the plaintiff is not a competent person to say about the payment of sale consideration and it has to be stated by the 2nd defendant but, she has not denied the receipt of sale consideration in her written statement. In so far as, the possession of the plaintiff is concerned, the plaintiff has marked electricity charges receipt dated 25.09.2023 and 22.01.2024, they are stands in the name of 1st defendant that too after 25.09.2023. The above document would show that, the electricity connection stands in the name of 1st defendant. The electricity receipt dated 18.05.2018, stands in the name of 2nd defendant was marked as Ex. B2 . Patta stands in the name of 1st defendant along with the others marked as Ex.B6. The electricity payment receipt dated 24.07.2023, stands in the name of 1st defendant was marked as Ex.B7. The property tax receipts stands in the name of 1st defendant was marked as Ex.B8. All the documents marked by the 1st defendant would show that, the 1st defendant had purchased the suit schedule property for the valid consideration and thereafter, the 1st defendant mutated revenue records in her name and the plaintiff herself admitted that she came to the property on 02.10.2022, but the above admission made by the PW1, would

show that she was not in possession of the suit schedule property, at the time of purchasing the suit property by the 1st defendant. But, she came to the suit property later. Hence, the plaintiff is neither entitled to the relief of cancellation of sale deed dated 12.04.2023, nor entitled to the relief of permanent injunction and as such the plaintiff is not entitled to any other relief as prayed for.

Answer to Issue No.4 :

21. In view of the findings given in issues No. 1 to 3, the plaintiff is not entitled to any other reliefs.

In the result, the suit is dismissed. Parties shall bear their own costs.

Directly dictated to the steno typist and directly computerized by her, corrected and pronounced by me in the open court, on this 13th day of July 2026.

**Sub Judge,
Eraniel.**

1. List of witnesses on the plaintiffs side :

P.W.1 : Tmt. Heema Rosy (Plaintiff)

2. List of exhibits on the Plaintiff side:

Ex.A1	28.10.1998	Sale deed bearing Document No.1510/1998 – certified copy
Ex.A2	12.04.2023	Sale deed baring Document No. 1058/2023 – Certified Copy
Ex.A3	20.05.2023	Legal Notice -Office copy
Ex.A4	-	Acknowledgment Card (2 Nos.)
Ex.A5	25.05.2023	Reply Legal Notice – Office Copy

- Ex.A6 25.09.2023 Electricity charges receipt in the name of 1st defendant
 Ex.A7 22.01.2024 Electricity charges receipt in the name of 1st defendant

3. List of defendants side witness:

D.W.1 : Tmt. Philominal

D.W.2 : Thiru. Samuvel Raj

4. List of defendants side documents:

- Ex.B1 28.10.1998 Sale deed bearing Document No.1510/1998 – Original
 Ex.B2 18.05.2018 Electricity Charges receipt in the name of 2nd defendant – Original
 Ex.B3 07.09.2018 Will Deed bearing Doc. No. 2883/2018 - Original
 Ex.B4 12.04.2023 Cancellation deed bearing Document No. 3/2023 – Original
 Ex.B5 12.04.2023 Settlement deed bearing Doc. No. 1/2023 - Original
 Ex.B6 04.05.2023 Patta bearing No. 3651 – On line copy
 Ex.B7 24.07.2023 Electricity charges receipt in the name of 1st defendant – Original
 Ex.B8 10.05.2023, Property Tax receipts (3 Nos.)
 11.09.2024
 and
 02.05.2025

**Sub Judge,
 Eraniel.**

Sub court, Eraniel.
Fair/Draft Judgement
O.S. No.56/2023
Date: 13.07.2026