

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF

AT KANCHEEPURAM

PRESENT: Tmt.Fanny Rajan, B.A., B.L.,(Hons)

Principal District Munsif, Kancheepuram

On Thursday, the 16th day of July 2026

O.S.No.87 of 2023

CNR. No.TNKP08-000162-2023

Gangadaran

...Plaintiff

//Versus//

1. Bharathamani

2.Vijay

3.Vinoth

4.Jayaseelan

... Defendants

This suit has come up on 30.06.2026 for final hearing before me in the presence of M/s.N.Raghavan counsel for the Plaintiff, M/s.P.Sugapriyan Counsel for the defendants 1 to 3 and M/s.N.Geetha counsel for the 4th defendant, upon hearing, perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

JUDGMENT

1. This suit is filed seeking for granting permanent injunction against the defendants restraining them from in any way interfering with plaintiff peaceful

possession and enjoyment of the suit property and to pass such or other orders and for costs.

Concise Statement of the Plaintiff as per the Plaint:

2. The plaintiff has averred that the suit property originally belonged to Mrs.Papathiammal vide a settlement deed dated 22.12.1975. She registered a Will dated 13.05.2005 bequeathing the property to her children. The suit property and another was bequeathed to him under B schedule of the Will. The said Mrs.Papathiammal died on 06.10.2020 and the Will came into force. Thereby he became the owner of the suit property and since in possession.

3. The 4th defendant became the owner of the A schedule property under the Registered Will and in possession. The 4th defendant colluded with the defendants 1 to 3 who are adjacent owners and trying to grab his property by interfering. The attempt on 20.04.2023 by the defendants was successfully prevented by him with the help of Villagers. Hence, this suit for permanent injunction.

Concise Statement of the 1 to 3 defendants as per their Written statement:

4. The defendants 1 to 3 have denied the allegations and stated that an extent of 33 cents with specific boundaries originally belonged to one Mrs.Papathiammal under a registered settlement deed dated 22.12.1975 and in

her possession. Later she executed a registered settlement deed dated 05.06.2003, 06.06.2003, 06.06.2003 and 26.10.2009 in favour of her son Punniyakotti, daughter Mrs.Sivagami, daughter Mrs.Parameshwari and 4th defendant for 10 cents, 7 cents, 7 cents and 5 cents respectively.

5. The said Mrs.Papathiammal and Mrs. Sivagami had executed a Sale Deed dated 30.12.2011 in favour of the 2nd and 3rd defendant who were minors represented by the 1st defendant for 1500 sq.ft. East to West 16+14 = 30 Sq.ft., North to South 50 feet. Since then, they are in possession. After Sale the portion retained by the said Mrs. Papathiammal was assigned S.No.441/3A1B and that purchased by the Defendants 2 and 3 was assigned S.No.441/3A2B 0-0.74 ares with Joint Patta No.5163. The regularisation was obtained and boundary stones were fixed.

6. The portion allotted to Punniyakotti, Parameshwari, Jayaseelan were subdivided and assigned S.No.441/3A4, S.No.441/3A3, S.No.441/3A1. The pathway was assigned S.No.441/3A5 and Joint patta issued in the name of Papathiammal, Sivagami, Parameswari and Punniyakotti. After sale by Sivagami and Papathiammal including that settled to 4th defendant, the remaining portion was assigned S.No.441/2A2A and S.No.441/3A1A respectively.

7. There is no 3 cents out of 33 cents as mentioned in the suit schedule available for sub division. The Sale Deed in favour of the 2nd and 3rd defendant was during lifetime of Papathiammal and cannot be affected by the Will. The remedy of the Plaintiff would lie only with the 4th defendant in S.No. 441/3A1A under Patta No. 6030. The 3 cents sought is not mentioned even in the boundaries of the 4th defendant settlement deed.

8. The 4th defendant already settled 872 sqft to his son and daughter, vide registered settlement deeds dated 06.01.2023. In fact, this covers the land in possession of the Plaintiff, but as he is his brother the Plaintiff colluded with the 4th defendant with malice. The suit is bad for non-joinder necessary parties and mis-joinder of these defendant 1 to 3. There is no attempt as alleged. The defendants are in possession of their property. The revenue records like FMB and Patta and Encumbrance Certificate are not filed, the original Will is not filed. Also the Plaintiff is abusing the process of law. The property description is vague for lack of boundaries and not in consonance with Order VII Rule 3 CPC. The Plaintiff has no right or possession in the property and has to be dismissed.

Concise Statement of the 4th defendant as per the Written statement:

9. The defendant has denied all the allegations and stated that he is not connected with the defendants 1 to 3 and not concerned about the alleged dispute between the said defendants 1 to 3 and the plaintiff. He is not a necessary party. The Plaintiff has no right or possession in the property and has to be dismissed.

Issues:-

10. On perusal of the plaint and written statement filed by the defendants, this Court framed the following issues on 06.12.2023.

- (1) Whether the plaintiff is in possession of the suit property?*
- (2) Whether the plaintiff is entitled for permanent injunction as prayed for?*
- (3) Whether the suit is bad without a prayer of declaration?*
- (4) Whether there is no cause of action for this suit?*
- (5) Whether the suit property was not properly described?*
- (6) What other relief the plaintiff is entitled?*

Evidences:-

11. To prove the case of the Plaintiff, he examined himself as PW1 and has marked Ex.A1 to Ex.A3 documents through him. On the side of the defendants, the 4th defendant and the 2nd defendant have been examined as DW1, DW2

respectively and have marked Ex.B1 to Ex.B13 on the side of the defendants 1 to 3. No documentary evidence has been let in by the 4th defendant.

Discussion and Findings:

12. This Court considers the submissions of the Learned Counsel for the Plaintiff and the Defendants 1 to 3 including the written submissions of the defendants 1 to 3. This court finds that there was no oral submissions advanced by the 4th defendant and hence this court proceeds to decide the issue at hand based on the materials adduced by the 4th defendant. This court perused the materials on record.

13. Case of the Plaintiff: The learned counsel for the Plaintiff contends that the suit property was originally upon his mother Mrs.Papathiammal through the Ex.A1 settlement deed. Thereafter she executed the Ex.A2 Will where by she had bequeath her properties to her children. Accordingly upon her demises on 06.10.2020, her legal heirs are the Plaintiff, the 4th defendant, one Mr.Punniyakotti and her daughters Mrs.Sivagami and Mrs.Parameshwari as substantiated by Ex.A3 legal heir certificate. Thus the Will had come into force and the Plaintiff became absolute owner of the suit property. The defendants are only adjacent owners and no right in the suit property. Hence the true owner cannot be disturbed in his possession and the suit has to be decreed.

14. Case of the Defendants 1 to 3: Per contra, the learned counsel for the Defendant 1 to 3 contend that the plaintiff is not duly described and identified the suit property. There are no boundaries and linear measurements in the suit property schedule. The Plaintiff only states 3 cent out of 33 cent without determining the property.

15. Apart from that in schedule he mentions the nature of suit property as vacant site. But in his cross examination mentioned that there is a house constructed by him. Further in his cross examination states that he is claiming ownership in the property between the Defendants 1 to 3 and 4th defendant. Hence the suit is bad for lack of due description under Order VII Rule 3 CPC. Also no document has been filed to prove the possession of the suit property.

16. The defendants 1 to 3 have purchased the suit property from Mrs.Papathiammal and Mrs.Sivagami through Ex.B9 sale deed. The 1500 sq.ft sold to the defendants 2 and 3 are with specific boundaries and linear measurements duly identified even in the sale deed. The same is also acknowledged by the Plaintiff in the plaint as they are adjacent owners and by the 4th defendant in Ex.B5 Settlement Deed.

17. Subsequently the properties were sub divided and the property received from Mrs.Papathiammal and Mrs.Sivagami were assigned survey number

441/3A1B, 441/3A2B. Patta has been duly issued to the defendants 2 and 3 in Ex.B10. The sale of part plot has been regularized as per Ex.B13. Defendants property is also admitted and identified through the Ex.B3 photographs marked through PW1. Their possession also admitted by DW1. In light of the above stated the Plaintiff has failed to clearly identify the property settled upon him and prove his title. Hence there is cloud over title of the Plaintiff.

18. Even as admitted by the PW1 in his cross examination there is no interference on 20.04.2023 or 18.04.2023. The PW1 and DW1 being brothers have both colluded as evidenced from the fact that both of them came to the court together. Hence in light of the above stated there is no merits in the Plaintiff's case and has to be dismissed with exemplary cost.

19. Case of the 4th defendant as per his written statement and DW1 evidence: He is not a necessary party to the suit. The plaintiff is his mother. The suit has to be dismissed against him.

20. Ocular and documentary evidence: This court finds that the Plaintiff evidence was commenced by examining the PW1 on 14.02.2024 and therefore, this case is governed by the Indian Evidence Act. This court finds that the PW1, DW1 and DW2 being the Plaintiff, 4th defendant and 2nd defendant respectively have been examined. This court finds that there is no material on

record to question the admissibility of their evidence. Hence, the ocular evidence of PW1, DW1, DW2 are admissible in evidence.

21. This court finds that the Ex.A1 to Ex.A3 and Ex.B1 to Ex.B2, Ex.B4 to Ex.B13 are either produced in original or online certified copies or true copies. This court finds that the Ex.A1 to Ex.A3 and Ex.B1 to Ex.B2, Ex.B4 to Ex.B13 are all admissible as primary or secondary evidence under Section 64 and 65 of the Indian Evidence Act.

22. Whiles, the Ex.B3 photograph with CD. Thus, the photographs being digital in nature are electronic evidence. Hence, the same are admissible in evidence only when accompanied by a 65B certificate or produced in original, as mandated and held by the Hon'ble Supreme Court in *Arjun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal and others, (2020) 7 SCC 1*. In the instant case, the Section 63 BSA certificate was filed on 25.06.2026. Though this suit is to be decided in terms of Indian Evidence Act, the Section 63 BSA certificate is similar to the mandated requirement under Section 65B of Indian Evidence Act. Hence, can be treated as valid 65B certificate. Hence, this court is of the considered view that the Ex.B3 is admissible as electronic evidence. Therefore, this court discusses the evidentiary value of PW1, DW1, DW2, Ex.A1 to Ex.A3 and Ex.B1 to Ex.B13 herein below.

23. Facts Not in dispute: From the case of the Plaintiff and defendants, this court finds that there is no dispute on the fact that the suit property and the properties of the defendants were all originally owned by Mrs. papathiammal through a Registered Settlement Deed dated 22.12.1975 Ex.A1. The said Mrs.Papathiammal died on 06.10.2020 and the Plaintiff, the 4th defendant, Parameshwari, Sivakami and Punniyakotti are her legal heirs as seen from Ex.A3 Legal Heirship Certificate. The fact that the Plaintiff and 4th defendant are brothers is admitted.

24. The main contention relates to the identification of the suit property, the conveyance of title upon the Plaintiff or defendants 1 to 3, possession etc. When there is no specific denial or specific admission in the evidence of PW1, DW1 and DW2, the facts mentioned in paragraph No.23 is not in dispute and leads to adverse inference of admission. Hence, these facts need not be proved in light of Section 58 of the Indian Evidence Act. Now this court proceeds to discuss, analyse regarding the facts in issue.

Issue No.1, 3 and 5: Possession, Lack of Relief of declaration and Description of property

25. The Issues No.1, 3 and 5 are interlinked as they all deal with the identification title and possession of the suit property. For sake of brevity and

better appreciation these issues are taken up together for discussion and analysis.

26. This court finds that this suit is filed seeking for bare injunction not to interfere with the possession of the Plaintiff. This court finds that one of the main contentions raised is whether the Plaintiff identified the suit property and was conveyed the absolute and exclusive title in the suit property as claimed. In light of the law laid down by the Hon'ble Apex Court in *Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by Lrs. & Ors, 2009 2 LW 546*, had clearly differentiated the circumstances in which a suit for bare injunction would lie and where there is a cloud over title, then declaratory relief has to be sought for.

27. This Court takes judicial note of the judgments in *Somasundaram Vs. Parameswariammal (Deceased), Represented by her Legal Representatives & Others, 2021 (4) CTC 44, K. Shanmugam (Died) & Others Versus Yasodha & Others, 2022 (1) LW 792*, the Hon'ble High Court had clearly observed that the question of declaration of title would become necessary only if the defendant established a cloud over the Plaintiff's title otherwise a bare injunction suit would be maintainable.

28. This court takes note of the judgment in *Ananthammal (died) and others Vs. M.Ramakrishnan and others, 2018 (1) CTC 24* and finds that the Plaintiff

has to stand on his own legs to discharge in burden of proof and not on the weakness of the Defendants case. Now the first question to be considered in this case is whether there is any cloud over title of the Plaintiff, necessitating the Plaintiff to seek for declaration of title also.

29. Cloud over title: This court finds that the suit property originally belonging to the Plaintiff's mother through Ex.A1 Settlement Deed is categorically admitted, as the Plaintiff and Defendants 2 to 4 are their conveyance of title from her. The entire issue emanates based on nature of conveyance of title from the said Mrs.Papathiammal. As per the plaintiff, the said Mrs.Papathiammal executed the Ex.A2 Will whereby the Plaintiff was bequeathed 3 cents suit property. To prove his title, the Plaintiff PW1 mainly relies on the Ex.A2 Will.

30. This court finds that in *Ramesh Chand (D) through Lrs. Vs. Suresh Chand and another, 2025 INSC 1059* the Hon'ble Supreme Court held that to prove a Will it is necessary to examine atleast one of the attesting witness and the mandate under Section 68 of the Indian Evidence Act cannot be overlooked. This court finds that the Plaintiff has not examined any attesting witness in this case.

31. As held in *Ramesh Chand Case (Supra)*, when the Plaintiff failed to prove the registered Will by examining the attesting witness as mandated under Section 68 of the Indian Evidence Act, the Ex.A2 Will cannot be considered to prove the alleged conveyance of title upon the Plaintiff for the suit property. In light of Section 91 of the Indian Evidence Act, the Ex.A2 Will will be the best evidence to prove the Plaintiff's title. However, the same is not proved as per the mandates under Section 68 of the Indian Evidence Act by examining the attesting witness and consequentially, there is no documentary evidence on the side of the Plaintiff to prove the conveyance of title upon him as alleged.

32. On the other hand to prove his title, the Defendants 1 to 3 relied on the Ex.B9 Sale Deed dated 30.12.2011 executed by the said Mrs.Papathiammal, the Plaintiff's mother and his sister Mrs. Sivagami in favour of the Defendants 2 and 3 minors at that time represented by their father the 1st defendant. The property of the defendants 2 and 3 is duly described as S.No.441/3A admeasuring $16+14 = 30$ feet on the East West breadth and 50 feet on the North South length, totally 1500 sq.ft. Thus, there is a clear evidence that out of the 33 cents in S.No.441/3A, the Defendants 2 and 3 had been conveyed title upon 1500 sq.ft.

33. Further, in the said Deed, to show the title of the vendors, the Ex.A1 Settlement Deed dated 22.12.1975 in favour of Mrs. papathiammal and the Ex.B7 Settlement Deed dated 06.06.2003 executed by Mrs. papathiammal, in favour of the said Mrs. Sivagami are referred. There is no dispute on the title of Mrs. papathiammal through Ex.A1 Settlement Deed. Out of the property in S.No.441/3 settled on her, she had settled a portion of 7 cents through the Ex.B7 Settlement Deed dated 06.06.2003 to her daughter.

34. Apart from the Ex.B1 and Ex.B2 are the signature of the Plaintiff's brother Mr.Punniyakotti and the husband of the said Mrs. Sivagami. The signatures were admitted by the Plaintiff PW1 himself during cross examination. Thus, it is clear that the Plaintiff also has categorically admitted the execution of the Ex.B9 Sale Deed in favour of the defendants 2 and 3 by his mother and knowledge about the same. It is also noted that the Ex.B9 Sale Deed is clearly exhibited in the Ex.B11 Encumbrance Certificate.

35. Also the possession and acting upon by the Defendants 2 and 3 in furtherance of the Sale Deed Ex.B9 is further established by the Ex.B10 Patta, Ex.B13 regularisation permission and Ex.B12 Survey Sketch. In view of the above discussions, this court finds that the defendants 1 to 3 have clearly proved the conveyance of title of the Defendants 2 and 3 in S.No.441/3A1B,

S.No.441/3A2B, through the Ex.B9 Sale Deed dated 30.12.2011 under Section 91 of the Indian Evidence Act. Thus, this court finds that there is valid conveyance of title upon the Defendants 2 and 3 as seen from Ex.A1 Settlement Deed, Ex.B7 Settlement Deed and Ex.B9 Sale Deed as mandated under Section 54 of the Transfer of Property Act read with Section 17 of the Registration Act.

36. Regarding the lack of title and identification of the suit property by the Plaintiff, the defendants 1 to 3 have also relied on the Ex.B4 to Ex.B8 Settlement Deeds. The Plaintiff's mother Mrs. papathiammal during her lifetime executed Ex.B4, Ex.B6, Ex.B7, Ex.B8, i.e. 4 Settlement Deeds dated 26.10.2009, 05.06.2003, 06.06.2003, 06.06.2003 at S.No.441/3A admeasuring 5 cents, 10 cents, 7 cents, 7 cents in favour of her children Mr.Jayaseelan (the 4th defendant), Mr.Punniyakoti, Mrs.Sivagami, Mrs.Parameshwari respectively.

37. These Settlement Deed executed by the Plaintiff's mother is admitted by the Plaintiff PW1 in his cross examination. Similarly, the DW1 4th defendant does not deny the execution of the Ex.B6 to Ex.B8 Settlement Deeds. He admits the Ex.B4 Settlement Deed in his favour. It is also acknowledged by the DW1 that he executed the Ex.B5 Settlement Deed dated 06.01.2023 in favour of his daughter Mrs. Ramya.

38. From the Ex.B5 Settlement Deed it is clear that out of the 5 cents settled upon him, through the Ex.B4 Settlement Deed he had settled 2 cents on his daughter. The DW1 on specific suggestion that he executed the Ex.B5 Settlement Deed based on the conveyance of title under Ex.B4 Settlement Deed only and not the Ex.A2 Will categorically admitted. Thus, the 4th Defendant also admits the execution and acting upon the Settlement Deed executed after the Ex.A2 Will dated 13.05.2005.

39. Further, the DW1 admits that through another settlement deed he settled a portion of his property to his son. Thus, there are separate Patta for 1 cents, 2 cents and 2 cents in the name of himself, his son and daughter. Thus, it is evidenced that the Ex.B4 Settlement Deed was duly executed and acted upon.

40. In light of the Ex.B4, Ex.B6, Ex.B7, Ex.B8 it is clear that the said Mrs.Papathiammal had already settled 5 + 10 + 7 + 7 cents thereunder 29 cents out of the 33 cents settled under Ex.A1 Settlement Deed. Further, from Ex.B9 Sale Deed it is clear that the said Mrs.Papathiammal and Mrs.Sivagami have sold 1500 sq.ft. to the Defendants 2 and 3, i.e. 3.44 cents.

41. It is true that there is no clarity regarding what extent of Mrs.Papathiammal land was sold in the Ex.B9 Sale Deed. But the Ex.B12 Survey Sub Division sketch clearly indicates that the entire extent of the 33

cents in S.No.441/3A has already been clearly sub divided. There appears to be no vacant or unclaimed portion of Mrs.Papathiammal in S.No.441/3A after all subdivisions as seen from ExB12 Sketch and Ex.B13 Regularisation plan. After all the Settlement Deeds and Sale Deed, there is no clarity regarding, what portion out of 33 cents remained with the Plaintiff's mother at the time of her demise.

42. As rightly pointed out by the learned counsel for the Defendants 1 to 3, under Section 152 of the Indian Succession Act, if the ownership of the property bequeathed under the Will is no longer owned by the Testator on her death, then the property shall be converted to be adeemed. Accordingly, it is for the Plaintiff to prove that the suit property in question allegedly bequeathed under the Will was not affected by the doctrine of ademption as per Section 152 Indian Succession Act.

43. It is for the Plaintiff to prove that on the demise of his mother, she continued to own the 3 cents as described in the suit property and thus, the Plaintiff became entitled to the same. This court finds that the Plaintiff only relied on the Ex.A2 Will and failed to prove the same. Apart from that he suppressed the material facts about the Ex.B4, Ex.B6 to Ex.B9 Deeds executed

by the said Mrs.papathiammal despite knowledge. Under such circumstances, the ownership of the Plaintiff in the suit property though admitted by the DW1 would not assist his case, as provided under Section 91 of the Indian Evidence Act. There is no material evidence to prove the conveyance of title upon the plaintiff.

Description of property:

44. This Courts notes that the plaint schedule is as follows:

“In Kanchipuram District, Kanchipuram Taluk, Kanchipuram Joint II Sub-Registrar Office, Sevilimedu Village Vacant House site compromised in S.No.441/3 New S.No.441/3A measuring an extent of 0.03 cents out of 33 cents.”

45. As rightly pointed out by the learned counsel for the Defendants 1 to 3, there are no boundaries or linear measurements mentioned in the plaint schedule. In fact during the cross examination of PW1 he repeatedly admits that the boundaries are not mentioned in the Plaint schedule. He states he is unaware of any subdivision in the suit property and mentions the suit property as S.No.441.

46. Apart from that the PW1 claimed that he filed the suit for 4 cents despite pointing out that the suit schedule only mentions 3 cents. The basis of the Plaintiff is through the Will of the said Mrs.Papathiammal. As found

hereinabove, the Plaintiff has failed to prove the Will as mandated under Section 68 of the Indian Evidence Act. In fact, he admits in cross examination that the boundaries are not mentioned even in the Ex.A2 Will.

47. Further regarding the nature of the suit property, he states that

“நான் தற்போது எங்கு வசித்து வருகிறேன் என்றால் சர்வே எண் 441 ல் வசித்து வருகிறேன். நான் மேற்படி சர்வே எண் 441 ல் வசித்து வருவதாக குறிப்பிட்டு சொல்லவில்லை என்றால் சரிதான். நான் எனது வழக்குரையில் வழக்கு சொத்து விவரத்தில் காலி இடம் என்று குறிப்பிட்டு தான் வழக்கு தாக்கல் செய்துள்ளேன் என்றால் சரிதான். மேற்படி வழக்கு சொத்து விவரத்தில் கட்டிடம் ஏதேனும் இருப்பதாக எனது வழக்கின் விவரத்தில் நான் எங்கும் குறிப்பிட்டு சொல்லவில்லை என்றால் சரிதான் அதன் பிறகு தான் நான் கட்டினைன். நான் வீடு கட்டியதற்கு அனுமதி பெற்ற வரைபடம், வீடு மற்றும் சொத்து வரி ரசீது ஏதேனும் தாக்கல் செய்துள்ளேனா என்றால் தாக்கல் செய்யவில்லை.”

48. Also, he admits that the suit property purchased by the Defendants 1 to 3 and the suit property are different. Though the PW1 mentions that he took necessary steps to survey the suit property, no document is filed to that effect.

49. On the other hand the Defendants 1 to 3 have relied on Ex.B10 to Ex.B13 to show the subdivision of S.No.441. As clearly seen from the Ex.B12 Survey Sketch, the property in S.No.441 is subdivided as S.No.3A1, 3A2, 3A3, 3A4, 3A5, 3B1, 3B2. Further it was again subdivided as S.No.3A1A, 3A1B, 3A2A,

3A2B, 3A4A1, 3A4B. These subdivisions in S.No.441/3 is duly reflected in the entries 7 to 40 in the Ex.B11 Encumbrance certificate.

50. Apart from that the Subdivision of the Defendants 1 to 3 is clearly indicated in Ex.B10 Patta as S.No.441/3A1B, S.No.441/3A2B. Also in the Ex.B13 Regularisation permission for the Plot sub division and plan of the defendant 1 to 3 property in S.No.441/3A1B, 3A2B. However, the Plaintiff failed to show in which sub division of S.No.441/3A, the suit property is situated despite specific question regarding the same.

51. This court also notes that the Defendants 1 to 3 have produced a photograph of their property and admission by PW1 in his cross, it was marked as Ex.B3. It is clear from the DW2 cross examination that the property of the Defendants 2 and 3 are vacant and approved as per Ex.B13 DTCP regularisation and surveyed.

52. From the photographs it is clear that boundary stones have been placed in the vacant land of the defendants 2 and 3, substantiating the subdivisions. The PW1 admits he is unaware when the property was last surveyed. Whiles, he claims that

"நான் பி.வா.சா ஆ 3 புகைப்படத்தில் மணல் கொட்டி
உயர்த்தப்பட்ட மேற்கு பக்கம் உள்ள வீட்டிற்கு உரிமை

கோருகிறேனா என்றால் வீடு மற்றும் அதை தாண்டி உள்ள நிலத்திற்கு உரிமை கோருகிறேன் "

Thus, it is evidenced that the Plaintiff is unclear about the boundaries and extent of property for which he claims possession.

53. The duty is cast upon the Plaintiff under Order VII Rule 3 CPC to properly describe the suit property sufficient for purpose of identification specially with the boundaries and Survey No. in the record of settlement or survey. However, the Plaintiff for reasons best known to him failed to identify the suit property through proper description of the survey sub divisions.

54. As per the well established principle of law boundaries prevail over survey number. Even assuming that the S.No.441/3A is mentioned, the lack of boundaries would affect the case of the Plaintiff in identifying the 3 cents in question. Thus this court finds that the Plaintiff has failed to clearly describe the suit property with due boundaries under Order VII Rule 3 CPC for due identification of the same. Accordingly, the issue No.5 is answered against the Plaintiff.

Possession:

55. This Court in issue No.5 hereinabove clearly found that the Plaintiff has not described and identified the suit property. As per the schedule the suit

property is a vacant house site. Whiles, the PW1 in his cross examination stated that he had subsequently put a construction in the suit property. But no single documentary evidence is filed to prove the alleged construction and possession of the house therein.

56. Even assuming the suit property is a vacant land as per the Plaint schedule, the possession follows title. As held in paragraph No.29 to 43 hereinabove, the Plaintiff had failed to establish his title in the suit property. Hence, this court finds that the Plaintiff had failed to discharge his burden of proof regarding the possession of the suit property. Consequentially, the issue No.1 is answered against the Plaintiff.

57. In view of the discussions hereinabove, it is clear that there is a clear cloud over the valid conveyance of title upon the plaintiff irrespective of the pleadings regarding ownership. The Plaintiff has to clearly prove his title through cogent evidence. There is no material evidence to show the conveyance of the title of the suit property upon the Plaintiff. Most importantly, despite the cloud and identification being pleaded in the written statement of the Defendants 1 to 3, the Plaintiff have failed to seek for declaration of title. Thus, even though the Plaintiff was aware of the cloud created over his title, the Plaintiff had chosen to not amend the suit relief.

58. Apart from that the issue regarding title involves a complicated and complex question of fact and law which cannot be decided in this suit for mere injunction as held in *Anathualla Sudhakar case (Supra)*. In this case, as the cloud has been duly established by the defendants 1 to 3, the Plaintiff ought to have cleared his title and sought for declaration of title. Having failed to seek for declaration of title, which has become a substantive necessary relief in this case, the suit is bad for lack of seeking declaration title. Accordingly, the issue No.3 is answered against the Plaintiff.

Issue No.4: Cause of Action

59. It is the case of the Plaintiff that the defendants tried to interfere with his possession on 20.04.2023 in his plaint. In PW1 chief he claims that on 18.04.2023 the Defendants tried to interfere with his possession. Whereas, during his cross examination the PW1 specifically admitted that

“நான்காம் பிரதிவாதி வழக்கு சொத்தில் என்னை இடையூறு செய்ததாக சொல்லப்படுவது எந்த தேதி என்றால் என்னை யாரும் இடையூறு செய்யவில்லை”

“நான் எனது வழக்குரையில் 20.04.2023 மற்றும் எனது பிரமாண வாக்குமூலத்தில் 18.03.2023ந் தேதியன்று பிரச்சனை நடந்தாக குறிப்பிட்டு உள்ளேன் என்றாலும் அது போல் ஏதேனும் பிரச்சனை நடந்ததா என்றால் அதை பற்றி எனக்கு தெரியாது”

60. Thus, even as per the PW1 there is no cause of action regarding the alleged disturbance for filing the suit on 20.04.2023 as pleaded. Also as decided in issue No.1 hereinabove, the Plaintiff has failed to prove his possession in the suit property. Accordingly, this court finds that the Plaintiff had clearly failed to discharge his initial burden of proof under Section 102 Indian Evidence Act regarding the alleged cause of action resulting in this suit. Hence, the issue No.4 is answered against the Plaintiff.

Issue No. 2: Permanent Injunction

61. In issue No.3, this court found there is a cloud over the title of the Plaintiff. In issue No.5, this court decided that the suit property is not duly identified as per the description and thus bad under Order VII Rule 3 CPC. Whereas, in issue No.1 the possession was found not to be established by the Plaintiff in the suit property. Finally in issue No.4 it was decided that there is no cause of action established by the Plaintiff for this suit. Resultantly, this court concludes that the Plaintiff failed to discharge his onus of proof that he was entitled to the relief of Permanent injunction as prayed for under Section 101 and 102 of the Indian Evidence Act. Accordingly, this court holds that the Plaintiff is not entitled to the exercise of the discretionary power of this court

under Section 38 of the Specific Relief Act regarding Permanent Injunction.

Hence, issue No.2 is answered against the Plaintiff.

ISSUE NO.6: Other Relief

62. As the Issue No.1 to 5 have been answered against the Plaintiff and this Court considers that both parties are not entitled to any other relief.

63. Considering the nature of the relief sought for and the facts and circumstances in this case, this court considers that the parties shall bear their own costs. Thus, Issue No.6 is answered accordingly.

RESULT

In the result, this suit is dismissed. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 16th day July 2026.

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM.**

Plaintiff's side Witness:

PW1 – Gangadaran (Plaintiff)

Plaintiff's side Exhibits:

Ex.A1	Settlement deed dated 22.12.1975	Certified copy
Ex.A2	Will dated 13.05.2005	Certified copy
Ex.A3	Legal heirs certificate	Online copy

Defendant's Side Witness :

DW1 – Jayaseelan (4th Defendant)

DW2 – Vijay (2nd Defendant)

Defendant's Side Exhibits:

Ex.B1	Signature by the Puniyakoti	Original
Ex.B2	Signature by the Kumar	Original
Ex.B3	Photos with CD	Original
Ex.B4	Settlement deed dated 26.10.2009	Online Certified copy
Ex.B5	Settlement deed dated 06.01.2023	Online Certified copy
Ex.B6	Settlement deed dated 05.06.2003	Online Certified copy
Ex.B7	Settlement deed dated 06.06.2003	Online Certified copy
Ex.B8	Settlement deed dated 06.06.2003	Online Certified copy
Ex.B9	Sale deed dated 30.12.2011	Online Certified copy
Ex.B10	Patta No. 5163	Online copy
Ex.B11	Encumbrance certificate	Online Certified copy
Ex.B12	FMB sketch No. 441	True copy
Ex.B13	Proceedings of the Commissioner D. No. 11974/2018/F2	Compared with Original

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM.**