

IN THE COURT OF DISTRICT MUNSIF, SRIPERUMBUDUR

**PRESENT: TR. P. JAGADEESWARAN BA.,BL.,
DISTRICT MUNSIF, SRIPERUMBUDUR**

On Monday, the 15th day of June 2026.

O.S.No. 268 of 2009

1. Praveen Chandra M.Shah,
 2. Kirti Kumar M.Shah
 3. Vinod Chandra M.Shah
 4. Sarajbala
 5. Rupesh
 6. Ushma K.Shah (amended as per I.A. 2/23 dated 31.07.2024.)Plaintiffs
- //Versus//

1. Selva Sivalingam (amended as per I.A. 2/23 dated 31.07.2024.)
... Defendant

This suit has come up on 20.04.2026 for final hearing before me in the presence of M/s.Mr.R.Mohan, D.Muthurangan, Learned Counsel for the Plaintiffs thereafter the defendant having been set exparte and having remained ex parte and upon hearing the arguments of both sides and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following:

JUDGMENT

1. This suit if filed seeking permanent injunction restraining the defendants, their men, agents, servants and others from any manner trespassing into the suit property and disturbing the plaintiffs peaceful possession and also disturbing the plaintiffs from putting up compound wall in the suit property and for costs.

2. CONCISE STATEMENT OF THE PLAINTIFF AS PER THE PLAINT :

The Plaintiffs stated that their mother was the absolute owner of the suit property purchased under a Registered Sale Deed dated 27.2.1975. They stated that she had been in absolute possession and enjoyment of the suit property uninterruptedly and, after her death intestate on 13.4.1994, they became the absolute owners by succession and continued in possession and enjoyment of the same uninterruptedly. The Plaintiffs stated that no one had any manner of right or interest over the suit property and that the Defendant, a stranger to the suit property, was making efforts to trespass through dubious means. They further stated that the Defendant's acts were illegal, intended to annex the suit property, and that despite repeated requests the Defendant remained hostile. The Plaintiffs stated that the Defendant, with the help of local thugs and henchmen, attempted to trespass into the suit property, prevent construction of the compound wall, and thereby cause hardships, irreparable loss and injury. They apprehended that the threat of trespass was imminent and required restraint by an order of the Court. It was further submitted that during the pendency of the suit the 2nd Plaintiff died on 13.11.2008 leaving behind his wife, one son and one daughter as legal heirs, who were impleaded and added as Plaintiffs 4 to 6 in the suit. They further stated that the Defendant was making frantic efforts to illegally trespass into the suit property and therefore sought a permanent injunction restraining the Defendants, their kith and kin, servants, agents and

men from trespassing into the suit property.

3. Ex Parte Evidence :

On the side of the Plaintiff, Praveen Chandra M.Shah examined himself as PW1 and Exhibits Ex.A1 to Ex.A2 were marked through PW1.

4. Heard the plaintiff side arguments and perused and considered the materials on record in proper perspective.

5. Points to be determined :

Whether the Plaintiff is entitled to the relief of permanent injunction as sought for ?

6. DISCUSSIONS AND REASONING :

Case of the Plaintiff - The 1st Plaintiff himself examined as PW1 and deposed that the Plaintiff 1 to 3 are the sons of Mrs. Maniben Sakar Chand, W/o. Mr.Manila P.Shah. The above said Mrs. Maniben Sakar Chand is the absolute owner of the suit schedule property from the year 1975. She purchased that property from one Mrs. Kanniammal, W/o. Ettiappa Naicker and Mr. Thirunavukarasu, S/o. Ettiappa Naicker in vide Doc.No. 808 /1975 on 27.02.1975 in SRO Tambaram. The above said Mrs. Mrs. Maniben Sakar Chand died on 13.04.1994. Hence plaintiff 1 to 3 become the absolute owner of the suit schedule of property based on the successors of Mrs. Maniben Sakar Chand the Plaintiff 4 to 6 are the legal heirs of 2nd Plaintiff added as per I.A.No. 2/23 for the reason 2nd plaintiff died.

7. Plaintiff side evidence – The 1st Plaintiff himself examined as PW1 and

Ex.A1 and A2 were marked. Ex.A1 is the sale deed in the name of Mrs. Maniben Sakar Chand. Ex.A2 is the death certificate of Mrs. Maniben Sakar Chand.

8. Upon perusal of the plaint and evidence deposited by the PW1 it is evident that the suit schedule of property comprised in Survey no. 380/ 1A / 2B measuring about 0.56 cents purchased by Mrs. Maniben Sakar Chand from Mrs. Kanniammal W/o. Ettappa Naicker and Mr. Thirunavukarasu S/o. Ettappa Naicker through Ex.A1. Ex.A1 clearly proves the title over the suit schedule of property in the name of Mrs. Maniben Sakar Chand. Ex.A2 clearly proving the demise of Mrs. Maniben Sakar Chand .

9. Now as per the plaintiff claim the defendant herein disturbed the peaceful possession of the suit schedule of property on 03.09.2005 without any any title or right over the property. The plaintiff herein are claiming that they are the only surviving successors of above said Mrs. Maniben Sakar Chand for this no legal heirship certificate was produced before this court. In addition to that plaintiff does not produce any encumbrance certificate for the period of 1975 to 1994 as well as after the demise of above said Mrs. Maniben Sakar Chand (i.e) from 1994 to 2005. It is admitted that title of the suit property is vested with only deceased Mrs. Maniben Sakar Chand and as per Ex.A1, but continuous title and possession to be proved since she died on 1994 itself. Since the title claim by the plaintiff is not sufficiently proved and no encumbrance was marked for the existing period 1974 to 1995 and also after the demise of Mrs. Maniben Sakar Chand from 1995 to 2005 that plaintiff are successfully obtained the title over the

suit property for the above said period. In addition to that as per the pleadings and evidence the defendants is stranger to the suit property and even his father's name and address was not specified properly to the sufficient satisfaction of the court. For the address of the service of the defendants as follows: "*Mrs. Selva sivalingam, fathers name and age not known to the plaintiffs, residing at Main road, Thirumudivakkam, Chennai 41, Sriperumbudur Taluk, Kanchipuram District.*" The above said averments doesn't proves whether the defendant is real trespasser are not. In addition to that no police complaint also not logged for the above said attempt trespass and further plaintiff does not pleaded boundary of the suit schedule in the respective column as required by **Order 7 Rule 3 of CPC**. *Order 7 Rule 3 of CPC as follows : 3. Where the subject-matter of the suit is immovable property. Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers. But* schedule of properties in plaint as follows : "*All that piece and parcel of the Agricultural lands situated at Varadarajapuram Village, Sriperumbudur Taluk, Kanchipuram District, comprised in Survey No. 30 /1A2B admeasuring nil acre and 56 cents within the jurisdiction of this Hon'ble Court.*"

10. As per the dictum laid down in the following Judgment: ***Ramesh Chand Ardawatiya v. Anil Panjwani AIR 2003 SC 2508*** – **Ex parte proceeding and burden of proof on Plaintiff** - *Even if the suit proceeds ex-parte and in the*

absence of a written statement, unless the applicability of Order VIII, Rule 10 of the CPC is attracted and the Court acts thereunder, the necessity of proof by the plaintiff of his case to the satisfaction of the Court cannot be dispensed with. In the absence of denial of plaint averments, the burden of proof on the plaintiff is not very heavy. A prima facie proof of the relevant facts constituting the cause of action would suffice and the Court would grant the plaintiff such relief as to which he may in law be found entitled. In a case which has proceeded ex-parte the Court is not bound to frame issues under Order XIV and deliver the judgment on every issue as required by Order XX Rule 5. Yet the Trial Court would scrutinize the available pleadings and documents, consider the evidence adduced, and would do well to frame the 'points for determination' and proceed to construct the ex-parte judgment dealing with the points at issue one by one. Merely because the defendant is absent the Court shall not admit evidence the admissibility whereof is excluded by law nor the Court shall permit its decision being influenced by irrelevant or inadmissible evidence.

11. As per **Section 101 of Indian Evidence Act**, as follows : **Burden of proof -** *Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.*

12. As per the above Judgment and Section 101 of Indian Evidence Act, plaintiff failed to discharge initial burden on their shoulder with sufficient

documents and particulars. Therefore for the reasons stated above this suit is liable to be dismissed. Hence this suit is dismissed.

13. RESULT :

In the result this suit is dismissed. No costs.

Dictated to the steno typist, who directly typed the same in her Computer, corrected and pronounced by me in open court, this the 15th day June 2026.

**(Sd/-Jagadeeswaran.P)
DISTRICT MUNSIF,
SRIPERUMBUDUR.**

Plaintiff's side Witness:

PW1 – Praveen Chandra M.Shah (1st Plaintiff)

Plaintiff's side Exhibits:

Ex.A1	27.02.1975	Sale deed in the name of Maniben Sakar Chand	Xerox
Ex.A2		Death certificate of Maniben Sakar Chand	Original

Defendant's Side Witness & Exhibits: NIL

**(Sd/-Jagadeeswaran.P)
DISTRICT MUNSIF,
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