

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 07th day of April 2026

O.S. No.38 /2021

CNR No.TNMD190000562021

1. S. Baskar, (Rep by. 2nd plaintiff as power agent)
S/o. Seenivasan
2. S. Chitra,
D/o. Seenivasan

---- Plaintiffs

//Versus//

1. R. Sundarraj
S/o. Ramaraj

---- Defendant

This suit was filed before this Court on 22.03.2021 coming before me for final hearing on 07.04.2026 and Advocate Thiru. P. Chinnaraja appeared for the Plaintiffs. Advocate Thiru. K. Ramasamy appeared for the Defendant. Upon hearing the arguments advanced by the both side parties and upon perusing the available material records, today this Court has delivered the following....

JUDGMENT

1. This suit was filed for declaration of joint title with consequential relief of mandatory injunction to remove encroachment and to declare the sale deed in doc. no.781 of 2001 dated 12.09.2001 as null and void with costs of the suit.

2. Gist of the plaint in brief:

i. The suit property was 1.5ft x 33ft land comprised in survey no. 13/52 of total extent 16.5ft x 33ft (544.5sq.ft.) at Neerathan village.

ii. The above mentioned property originally belonged to three brothers namely;
1. Rengasamy reddy, 2. Valaguruva reddy and 3. Nagu reddy. After their life time, their heirs acquired the property. Later in 1965 their heirs decided to keep 1.5 x 33 ft. wide land on the eastern part as common portion and orally partitioned the remaining portion of 15 x 33ft. among them.

iii. By oral partition, For the heirs of above mentioned 1. Rengasamy reddy namely;

I. Gurusamy reddy, II. Alagarsamy and III. Seetharaman obtained 5 x 33 ft. land on the western side of total extent.

Secondly the heir of above mentioned 2. Valaguruva reddy namely;

I. Muthu reddy obtained 6.25 x 33 ft. land on the east of above mentioned share allotted to 1.Rengasamy reddy's heirs.

Thirdly the heirs of above mentioned 3. Nagu reddy namely;

I. Kodhaiyammal obtained 1.25 x 33 ft., II. Sappani @ Ramachandran obtained 2.5 x 33ft. on the east of above mentioned share allotted to 2. Valaguruva reddy's heirs.

Finally the 1.5 x 33 ft. land on the eastern side of above mentioned share of Nagu reddy's heir was allotted as common property. This portion of common property was the suit property in dispute.

iv. Later, in 1973, the plaintiffs' ancestor Muthureddiyar purchased the share of one Balu reddy who was the heir of above said 3. Nagureddy. The said Muthureddiyar in 1977, again purchased the shares of 3. Nagureddy from Vellaichamy and Govindan. The purchaser Muthureddiyar died on 28.09.2007, leaving the plaintiffs' father and two other persons as his heirs.

v. In 2003, the plaintiffs' father purchased the shares of Jeyaseelan and Raj, who were the heirs of 3. Nagureddy. Then in 2009, the plaintiffs' father purchased the share of Alagarsamy, who was a heir of 1. Rengasamy. Later after the death of the plaintiffs' father in 2011, the plaintiffs acquired the above purchased properties.

vi. Being so, in 2019 the plaintiffs came to know that the defendant fraudulently purchased the share of dimension 2.5 x 33ft from Sappani @ Ramachandran in 2001 by including the east side common area by mentioning incorrect description of four boundaries. The plaintiffs asked to cancel the fraudulent deed, the defendant though initially agreed, then did not canceled the sale deed. The defendant also encroached the common suit property on 09.01.2019. Hence the plaintiff filed this suit seeking declaration for the common property consequentially to remove the encroachment and to declare the sale deed of the defendant as null and void.

3. Gist of the written statement in brief:

The defendant denied the entire contention of the plaintiffs including the oral partition. According to the defendants there were shops in the entire extent of suit properties and the defendant purchased his shop building from Sappani @ Ramachandran. The defendant did not made any encroachment as alleged in the plaint and there was no common land as mentioned in the plaint. The sale deeds relied upon by the plaintiffs were not relevant to the suit property. Further the

plaintiff and defendant had raised wall between their properties, all these facts were well known to the plaintiffs but had filed this false suit.

4. On perusal of entire records issues were framed as follow;

I. Whether the plaintiff is entitled to seek the relief of declaration of joint title as sought for?

II. Whether the plaintiff is entitled to seek the relief of mandatory injunction as sought for?

III. Whether the plaintiff is entitled to seek the relief of declaration to declare the sale deed dated 12.09.2001 as null and void?

IV. To what other relief the plaintiff is entitled to?

5. Plaintiff had examined, Pw.1, Pw.2 and had marked Ex.A.1 to 9. Here Ex.A.1 was the Sale deed dated 08.01.1973, Ex.A.2 was the Sale deed dated 12.09.1977, Ex.A.3 was the Sale deed dated 16.05.2003, Ex.A.4 was the Sale deed dated 04.06.2009, Ex.A.5 was the Sale deed dated 20.07.2001, Ex.A.6 was the Sale deed dated 12.09.2001, Ex.A.7 was the rough sketch, Ex.A.8 was the Death Certificate of Muthureddiyar as he died on 28.09.2007, Ex.A.9 was the Legal Heir Certificate of Muthureddiyar dated 11.05.2011, Ex.A.10 was the death certificate of Seenivasan, as he died on 11.05.2011, Ex.A.11 was the Legal Heir Certificate of Seenivasan and Ex.A.12 was the Power of attorney dated 27.09.2019.

The plaintiff had also marked Ex.C.1 - Advocate Commissioner Report and Ex.C.2 - Surveyor plan.

The defendant had examined Dw.1, Dw.2 and marked Ex.B.1 to 4. Among the documents; Ex.B.1 was the property tax receipts - 9 Nos., Ex.B.2 was the Joint Patta no.2244, Ex.B.3 was the electricity receipt dated 21.02.2025, Ex.B.4 was the aadhar card of Dw.2.

6. Points for determination:

Issue I: Whether the plaintiff is entitled to seek the relief of declaration of joint title as sought for?

i. Heard both sides. Records perused. The learned plaintiffs counsel had argued that, the plaintiff's ancestors were the original owners of the entire extent of the suit property. It was orally partitioned among them. At present the plaintiffs had acquired their ancestors share of property from the entire extent by inheritance. The suit schedule property was agreed to be kept as common share by the plaintiffs' ancestors. The defendant in 2001 had purchased a part of land from one of the sharer next to the common share by including the common share in the four side boundary of the sale deed. The defendant had also made encroachment in the common portion in 2019. Hence the plaintiffs had filed this suit. The learned plaintiffs counsel had further argued that the plaint pleadings was proved by necessary evidence and hence the suit may be decreed.

ii. On the other hand the leaned defendant counsel had argued that, there was already a shop running by his vendor, the defendant had only purchased that shop building. The plaintiffs were well aware of the existing shop building in the suit property and the plaintiffs were in possession of their part of the property by dividing both the plaintiffs and defendant property by a common wall. The plaintiffs had filed this suit without any merits but to harass the defendant. Thereby the suit may be dismissed.

iii. Here the main ground of the plaintiff was that the suit property was 1.5ft x 33ft of land comprised in the eastern portion of survey no. 13/52. According to the plaintiff the entire extent of land in the above survey number was orally partitioned in 1965 among the heirs of their three ancestors. During the said oral partition, the suit property was agreed to be kept as a common property. But the defendant falsely

included this suit property in his sale deed by mentioning wrong four boundaries. All the above contentions were denied by the defendants, hence the burden of proof is upon the plaintiffs to prove primarily that the suit schedule property was decided to be kept as common property in the oral partition in 1965. Then to claim the relief of declaration the plaintiffs had to prove that the title of suit property vests jointly with the plaintiffs and the defendant.

iv. To prove the plaintiffs case, the plaintiffs had examined Pw.1 and 2. They had deposed in consonance with the plaint. The plaintiff had also marked Ex.A.1 to 12 and commissioner report and plan as Ex.C.1 and 2. Among the plaintiff side documents;

Ex.A.1 was the Sale deed dated 08.01.1973, by which one Muthureddiyar purchased the 1/4th share in undivided 1/3rd share of one Balu reddy, S/o. Nagureddy in total extent of 2 cents of dimension 16.5 x 39.5ft in survey no. 13/7B. The property consists of land and a dilapidated building.

Ex.A.2 was the Sale deed dated 12.09.1977, by which one Muthureddiyar purchased the shares of Vellaichamy and Govindan who were the sons of Nagureddy. By this sale deed their 2/4 share in 1/3rd share of undivided property in northern part of survey no. 13/7B of total dimension 16.5 x 39.5ft was sold. The property was a vacant land in which a house building was once located.

Ex.A.3 was the Sale deed dated 16.05.2003, by which the plaintiffs' father Seenivasan had purchased the land and shed from the sons of Ramu reddy namely; Jeyaseelan and Raj. In this sale deed 1.5 x 33ft amounting to 49.5sq.ft in the total extent of 16.5 x 33 ft (544.5sq.ft) in survey no.13/32 was sold.

Ex.A.4 was the Sale deed dated 04.06.2009, the plaintiffs' father purchased the 1/3rd share of Alagarsamy, s/o. 1. Rengasamy in land and house building comprised of dimension 5 x 33 ft. in survey no.13/32.

Ex.A.5 was the Sale deed dated 20.07.2001, by which the defendant purchased the share in land and shed of dimension 2.5 x 33ft situated in the eastern side of the

total extent of 16.5 x 33ft. from Sappani @ Ramachandran in 2001. The property was in survey no. 13/32, old survey no.13/7B2A.

Ex.A.6 was the Sale deed dated 12.09.2001, by which the defendant purchased land and shed in survey no.13/32 of dimension 29ft on the north and south, 4.5 ft. on the east and west of extent 66 sq.ft.

Ex.A.7 was the rough sketch,

Ex.A.8 was the Death Certificate of Muthureddiyar as he died on 28.09.2007,

Ex.A.9 was the Legal Heir Certificate of Muthureddiyar dated 11.05.2011,

Ex.A.10 was the death certificate of Seenivasan, as he died on 11.05.2011,

Ex.A.11 was the Legal Heir Certificate of Seenivasan,

Ex.A.12 was the Power of attorney dated 27.09.2019.

v. The plaintiff had also marked Ex.C.1 - Advocate Commissioner Report and Ex.C.2 - Surveyor plan. According to the advocate commissioner report, the entire extent of the suit property in survey no. 13/29 was of dimensions 5m in the north, 4.6m in the south, 9m in the east and 10m in the west. The above survey number was in joint patta of 8 persons. During inspecting the suit property with surveyor by measurement it was found that the joint pattadhars in the suit property had encroached 20 sq.ft of land on the eastern side. This encroached land was a public road in survey no. 13/31.

vi. According to the plaint the entire suit property was located in the eastern portion of survey no.13/32 with total extent of 544.5 sq.ft. and of dimensions 16.5 feet running east to west and 33 feet running north to south. In the above mentioned property the suit property was of dimension 1.5 x 33 feet. On perusal of the plaintiffs documents, the plaintiffs did not file any revenue record or FMB to prove the above extent and the dimensions of the suit property. Only from the FMB filed with the commissioner report this court can find the suit property was comprised in entire extent of 5m in the north, 4.6m in the south, 9m in the east and 10m in the west. Thus

from bare comparing of the dimensions mentioned by the plaintiffs and the commissioner report shows that the plaintiffs claim the entire extent of the suit property was with similar length and breath but the revenue records shows the suit property was with 4 different lengths on all the four sides. Hence at the outset, the dimensions of the entire extent of the suit property does not match with the revenue records as mentioned in the commissioner report.

vii. Further according to the plaintiff, the total extent of the suit property was of 544.5sq.ft. Plaintiffs did not file any document to prove the above extent but from the patta annexed with the commissioner report, the total extent of the suit property was shown as 0.50 ares which will be 538.196 sq.ft. Thus the total extent of the suit property does not match with the revenue documents annexed to the advocate commissioner report.

viii. Since the plaintiffs claimed the suit property was orally partitioned, this court relies upon the finding of our *Hon'ble Supreme Court in Vineeta Sharma vs Rakesh Sharma, (AIR 2020 SC 3717)* as;

“129. Resultantly, we answer the reference as under:

.....

(v) *In view of the rigor of provisions of Explanation to Section 6(5) of the Act of 1956, a plea of oral partition cannot be accepted as the statutory recognized mode of partition effected by a deed of partition duly registered under the provisions of the Registration Act, 1908 or effected by a decree of a court. However, in exceptional cases where plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been affected by a decree of a court, it may be accepted. A plea of partition based on oral evidence alone cannot be accepted and to be rejected outrightly.”*

Hence our Hon'ble Supreme Court had decided as, the plea of oral partition can only be accepted if it was supported by public documents as partition was affected but only on oral evidence oral partition cannot be accepted.

ix. In the case in hand the plaintiffs had contended that the suit property was orally partitioned in 1965 among the legal heirs of 1. Rengasamy reddyar, 2. Valaguruva reddyar and 3. Nagu reddyar. The plaintiffs had also pleaded the exact dimension and location of the allotted shares by oral partition. Later the partitioned property was purchased by the plaintiffs ancestors Muthureddyar and father Seenivasan from different sharers. The plaintiff had filed Ex.A.1 to 4 sale deeds to prove the plaintiffs contention. On perusal of Ex.A. 1 and 2 sale deeds they were of the year 1973 and 1977, in the above sale deeds the vendors have sold their undivided shares in the total extent of the property without mentioning the meets and bounds. If at all oral partition had taken place in the year 1965, then it would be reflected in the Ex.A.1 and 2 sale deeds. But as only undivided shares were sold in Ex.A.1 and 2 sale deeds that were executed in the year 1973 and 1977, the plaintiff's contention that the entire extent of the suit property was orally partitioned in the year 1965 cannot be relied upon.

xii. In the light of above mentioned judgment of Hon'ble Supreme Court, it was decided as the oral partition had to be reflected in public documents. In this regard on perusing the revenue documents of the suit property, as already found the plaintiffs had not filed any revenue record. In the patta annexed to the advocate commissioner report, the entire extent of the suit property in survey no. 13/32 was found to be in possession of 8 persons including the plaintiffs and the defendant. Though the plaintiff had claim as the suit property was orally partitioned in 1965 but the total extent of the suit property still remain without mutation in revenue records. In such circumstance, as the oral partition claimed by the plaintiff was not reflected in revenue document, the plaintiff's contention on oral partition remain unproved.

x. On the other hand the defendants denied the oral partition as claimed by the plaintiffs and contended that, their vendor was already running a shop in the suit property and only that shop was purchased by this defendant. The defendant did not made any encroachment as claimed by the plaintiffs. The defendant had examined Dw.1 and 2, they had deposed in consonance with the written statement, it was not rebutted in their cross examination. Further the defendant had also filed Ex.B.1 - property tax receipts - 9 Nos., Ex.B.2 - Joint Patta no.2244, Ex.B.3 - electricity receipt dated 21.02.2025, Ex.B.4 - aadhar card of Dw.2 to challenge the plaintiffs case. The Ex.B.1 – property tax receipts were for the property in door no.143. The defendant did not let in any reliable evidence to prove the above property receipts and electricity bill were for the suit property. Ex.B.2 – patta for the suit property was already filed with the advocate commissioner report. The Dw.1 had also disputed as the plaintiff's had wrongfully contended that their father was the only legal heir of their ancestor deceased Muthureddiyar. But Muthureddiyar had other surviving heirs and that were not disclosed in the plaint. But this contention was not raised in written statement hence this contention of the defendant cannot be looked into.

xi. From appreciating the entire pleadings and evidences filed by both the sides, as discussed above, this court can find that the oral partition claimed by the plaintiffs remains unproved, the dimensions of the suit property did not correlate with the revenue documents. The plaintiffs did not let in any reasonable explanation for the above discrepancy. The plaintiffs did not prove that the public documents for the suit property was mutated in accordance with the oral partition as claimed by the plaintiffs. Thereby the plaintiffs cannot claim that the suit property of 1.5 x 33ft in the eastern portion of survey no. 13/32 was a common property for the sharers under oral partition. The plaintiffs did not let in any specific reliable document to prove that the suit property was allotted as common property of the sharers in 1965. In such circumstance as the plaintiffs did not prove that the suit property was a common

property of the plaintiffs and the defendant, the plaintiffs cannot claim the relief of declaration as the plaintiffs and defendant were joint title holders of the suit property.

xii. This issue is answered against the plaintiffs.

Issue II: Whether the plaintiff is entitled to seek the consequential relief of mandatory injunction as sought for?

i. The plaintiff along with declaration of title had pleaded that, the suit property was common property of the plaintiffs and the defendant but it was encroached by the defendant, thereby the plaintiffs sought for consequential relief of mandatory injunction against the defendant to remove the encroachment.

ii. Regarding consequential relief **our Hon'ble Apex Court in *Padhiyar Prahladi Chenaji v. Maniben Jagmalbhai*, (2022 SCC OnLine SC 258)** had held as follows,

“11. From the impugned judgment and order passed by the High Court, it appears that the High Court has not properly appreciated the distinction between a substantive relief and a consequential relief. The High Court has observed that in the instant case the relief of permanent injunction can be said to be a substantive relief, which is clearly an erroneous view. It is to be noted that the main reliefs sought by the plaintiff in the suit were cancellation of the sale deed and declaration and the prayer of permanent injunction restraining defendant No.1 from disturbing her possession can be said to be a consequential relief. Therefore, the title to the property was the basis of the relief of possession. If that be so, in the present case, the relief for permanent injunction can be said to be a consequential relief and not a substantive relief as observed and held by the High Court. Therefore, once the plaintiff has failed to get any substantive relief of cancellation of the sale deed and failed to get any declaratory relief, and as observed hereinabove, relief of injunction

can be said to be a consequential relief. Therefore, the prayer for permanent injunction must fail. In the instant case as the plaintiff cannot be said to be in lawful possession of the suit land, i.e., the possession of the plaintiff is “not legal or authorised by the law”, the plaintiff shall not be entitled to any permanent injunction.”

iii. In the present case, the plaintiffs had sought declaratory relief as substantial relief to declare their title in the suit property and failed to get that, in such scenario, the plaintiffs cannot claim the consequential relief of mandatory injunction for the suit property.

iv. From the advocate commissioner report, the defendant was found to have encroached 20 sq.ft. in public road in survey no. 13/31. The survey no.13/31 was not in dispute in this proceeding and the government authorities were not added as parties to the suit. Hence the plaintiffs are at liberty to inform the encroachment to the appropriate authorities for further action.

v. Since the declaratory relief was not granted to the plaintiffs as decided above, the plaintiffs are not entitled for the consequential relief of mandatory injunction. This issue is answered against the plaintiffs.

Issue III: Whether the plaintiff is entitled to seek the relief of declaration to declare the sale deed dated 12.09.2001 as null and void?

i. The plaintiffs claimed that by oral partition made in 1965, the suit schedule property was allotted as common property of all the legal heirs of 1. Rengasamy reddyar, 2. Valaguruva reddyar and 3. Nagu reddyar. Thus the defendant's vendor did not have any exclusive right over the suit property but the suit property was included in the defendant's sale deed dated 12.09.2001. Thus as the common property

was wrongly included in the sale deed, the plaintiffs sought to declare the sale deed in favor of the defendant as null and void.

ii. As found in the discussion made in issue. i, though the plaintiffs contend that the suit property was common property of the plaintiffs and the defendant but did not prove such contention. The plaintiffs did not file any relevant document to prove the suit property was a common property of the legal heirs of 1. Rengasamy reddy, 2. Valaguruva reddy and 3. Nagu reddy. In such circumstance, the plaintiffs cannot claim that the suit property was wrongfully included in the defendant's sale deed. Thus as the plaintiffs did not prove that the suit property belong to the plaintiffs and the defendant's vendor jointly but it was wrongfully sold to the defendant, the plaintiff cannot seek to declare the defendant's sale deed as null and void.

iii. Thus this issue is answered against the plaintiffs.

Issue IV: To what other relief the plaintiff is entitled to?

From the aforementioned discussions, since all the above issues are answered against the plaintiffs, the plaintiffs are not entitled for the costs of the suit and the plaintiffs are not entitled for any other relief.

7. **In the result**, the suit is dismissed, without costs.

Judgment directly dictated to the Stenographer and computerized error checked and Pronounced by me in open court this the *07th day of April 2026*.

District Munsif,
Vadipatti.

1. Plaintiff side witness :

Pw.1 – Chithra

Pw.2 - Chandrasekaran

2. Plaintiff side documents :

Ex.A.1	Sale deed dated 08.01.1973	Original
Ex.A.2	Sale deed dated 12.09.1977	Original
Ex.A.3	Sale deed dated 16.05.2003	Original
Ex.A.4	Sale deed dated 04.06.2009	Original
Ex.A.5	Sale deed dated 20.07.2001	Certified Copy
Ex.A.6	Sale deed dated 12.09.2001	Certified Copy
Ex.A.7	Rough sketch	---
Ex.A.8	Certificate of Vadipatti Town Panchayat Executive Officer, dated 18.10.2007 for the death of Muthureddiyar dated 28.09.2007	Certified Copy
Ex.A.9	Legal Heir Certificate of Muthureddiyar dated 11.05.2011	Certified Copy
Ex.A.10	Certificate of Vadipatti Town Panchayat Executive Officer, dated 18.05.2011 for the death of Seenivasan, dated 11.05.2011	Certified Copy
Ex.A.11	Legal Heir Certificate of Seenivasan, dated 10.06.2014	Certified Copy
Ex.A.12	Power of attorney dated 27.09.2019	Certified Copy

3. Advocate Commissioner side witness: Nil**4. Advocate Commissioner side documents:**

Ex.C.1	Advocate Commissioner Report
Ex.C.2	Surveyor plan

4. Defendant side witness :

Dw.1 - Sundarraaj

Dw.2 - Moorthy

5. Defendant side documents:

Ex.B.1	Property tax receipts - 9 Nos.	Original
Ex.B.2	Joint Patta no.2244	Online Copy
Ex.B.3	Electricity receipt dated 21.02.2025	Online Copy
Ex.B.4	Aadhar card of Dw.2	Copy Compared with Original

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT
Vadipatti
FAIR JUDGMENT
O.S. No.38/2021
Date : 07.04.2026