

CNR.No.TNMD230006042025



IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Appellate Authority/Subordinate Judge,

Melur.

Friday the 24th day of April 2026

A.S.No.35/2025

in

OS.No.4/2017

Karuppuchamy

.... Appellant/ Plaintiff

//Vs//

Shanmuganathan

.... Respondent/Defendant

An Appeal has been preferred as against the judgment and decree in OS.No:- 4/2017 dated 28.08.2025 on the file of District Munsif Court, Melur.

Between:-

Karuppuchamy Plaintiff

-Vs-

Shanmuganathan Defendant

This appeal suit has been coming before this court on 07.04.2026 for final hearing in the presence of Advocate.Mr.K.Sulthan Allowdhin, Advocate for the appellant and Advocate.Mr.M.Jeyaraman, Mr.S.Gangatharan and Miss.P.Subhadharshini, Advocates for the respondent and upon hearing arguments on both sides and upon perusing the Decree and Judgment of the trial court and the materials on record and having stood over till this date for consideration, this court delivers the following :-

J U D G M E N T

1. Appeal Prayer:

(i) This appeal has been filed to set aside the Decree and Judgment passed by the Learned District Munsif Court, Melur in OS.No:- 4/2017 dated 28.08.2025.

(ii) Trial Court Judgment :-

The trial court after considering the evidence dismissed the suit without costs.

2. OS.4/2017 prayer in Plaint :-

Suit has been filed by the plaintiff for declaration of title over the suit property and consequentially to restrain the defendant by anyway interfering with the peaceful possession and enjoyment of the suit property by an order of permanent injunction and for costs.

3. Brief Averments of the Plaint in OS.4/2017 in Trial Court as follows :-

(i) The suit property is situated in Kurinchipatti Village, Melur Taluk, Madurai District. The suit property is a nanja land measuring 0.13.5 ares (33 cents) in extent, bounded by Survey No. 362/14C in Kuringipatti village. The suit property is the property that was inherited by the plaintiff. The suit property was initially the property of Mr.Muthurasu S/o.Mr.Periyakruppan of Kurichipatti. The suit property was initially registered in the name of Mr.Muthurasu under Patta No. 1144. Mr.Muthurasu inherited the land through his father and about 50 years ago, he was enjoying it as a hereditary right. Later, after the death

of Periyakaruppan, his only son Mr.Muthurasu inherited it and enjoyed it. The title deed was also changed in his name. Mr.Muthurasu enjoyed it by doing his own farming and passed away on 05.05.2010. His heirs are his wife Pandiammal, daughters Sakthi and Nadhiya, and son Natrayan. After the death of Mr.Muthurasu, the above four heirs of Mr.Muthurasu attained complete possession without any hindrance and enjoyed their own farming. They were the ones who also paid the tax on the property in question.

(ii) In that situation, the plaintiff, as per the sale deed dated 03.03.2014, has obtained the purchase from the above four persons, namely Muthuras' wife Pandiammal, daughters Sakthi, Nadhiya and son Natrayan, by paying the consideration of the sale price. Since 03.03.2014, the plaintiff has been enjoying the suit property as the full owner with full freedom of use and has been doing his own farming. The suit property has also been acquired in the name of the plaintiff as a own property under Patta No. 2648. The defendant is a friend of the plaintiff. The defendant is well aware of the details of the plaintiff's acquisition of the property in question.

(iii) The defendant is a distant relative of the plaintiff's aggrieved party. There is a dispute between him and his relatives regarding other properties. The defendant had repeatedly requested the plaintiff to intervene in the said dispute and to settle it amicably. The plaintiff had tried to reconcile the two parties and suggested ways to resolve the issues, and both parties were ready to act accordingly. But suddenly the defendant refused to settle the dispute. The defendant has no right over the suit property. In that case, the defendant has filed a complaint with the Keelavalavu police station alleging that a sale deed was fraudulently prepared in the name of the plaintiff and those who had done the deed to the plaintiff to defraud the defendant of his property rights and it has been registered under Sections 420, 506(i) of the IPC on 10.10.2015. On 30.12.2016, while the plaintiff was standing at the suit property, the defendant arrived with his henchmen and attempted to enter. Hence this suit.

4. Brief Averments of the written statement filed by the defendant in OS.4/2017 in Trial Court as follows :-

(i) The plaintiff admitted averments hereunder, all the other averments are denied and the plaintiff is put to strict proof of the same.

In fact, the suit property is the self-acquired property of Mr.Ayyanan, the grandfather of the defendant. The defendant is the grandson of Mr.Ayyanan through his son Mr.Vellaidurai. The said Mr.Ayyanan acquired the suit property from Sundaram Pillai S/o. Ramasamy Pillai, Keelapoongudi by way of a registered sale deed dated 11.06.1948, for proper use. While the above Mr.Ayyanan was receiving the sale and gaining possession in his own way, the above Mr.Ayyanan left the above Kovilpatti village and went to Burma in search of livelihood. He got married there and had three sons, Vellathurai, Pappu @ Karuppanan, and Ayyavu, and three daughters, Muthammal, Sarvammal, Aarammal, and Pakkiyam.

(ii) Among them, the above-mentioned Mrs.Muthammal came to India and lived with her husband Ramaiah and their children in her mother country, while this defendant also came to India from Burma in 1995 and married his own aunt, Muthammal's daughter, Sushila. He also lived in the same village where the suit property is located and has been living there till date. The suit property is also the possession of this defendant in farming and growing fodder grass. The entire property in dispute is the property of Mr.Ayyanan, the father of the defendant. The

property, including the patta, chitta and adangal, has been created in the name of the aforesaid plaintiff Mr.Ayyanan and the property in dispute has been owned by Mr.Ayyanan and has remained in the ownership of this defendant until today.

(iii) In fact, the wife and children of Mutharasu have no right or obligation to give the suit property to the plaintiff. Moreover, knowing that the suit property was given to the defendant, the plaintiff has obtained the claim without any benefit of compensation in order to encroach on the suit property. The plaintiff has obtained the suit property without paying any nominal amount. The defendant and his family transferred the property, including the property in question, to Ayyanan's son Thiagarajan, a resident of his village, in 1994, and the defendant paid back the property and is farming it based on his own possession. It is also denied that the defendant has no right to the suit property. The plaintiff and the persons who gave him the suit property fraudulently prepared a sale deed. It is admitted that a complaint has been filed in this regard at the Keezhavalavu Police Station and the case is also pending.

(iv) The suit property was in the name of the father of the defendants' grandfather Mr.Ayyanan, from the date of acquisition of the property until the UDR period. After the UDR period, the suit property was mistakenly registered in the name of Mr.Muthurasu. The above confusion was entirely due to the negligence of the Revenue Department regarding the suit property. A case is pending in the Madurai DRO Court to correct the mistake that occurred in the name of Mr.Muthurasu from the name of the above Mr.Ayyanan after the UDR survey period with respect to the suit property. Hence this suit has to be dismissed with costs.

5. Based on the pleadings, the trial court framed the following issues on 05.01.2018 :-

1. Whether the suit property belongs to the plaintiff as stated in the plaint ?
2. Whether the plaintiff is entitled to the relief of declaration and consequent relief of permanent injunction against the defendant as prayed for ?
3. To what other reliefs the plaintiff is entitled for ?

6. During the trial, on the plaintiff side, the plaintiff Mr.Karuppuchamy was examined as PW1 and documents Ex.A1 to Ex.A11 were marked on the plaintiff side, PW2 Mrs.Pandiammal was examined as PW2 and no document was marked. On the defendant side, the defendant Mr.Shanmuganathan was examined as DW1 and documents Ex.B2 to Ex.B16 were marked. During PW1 cross, Ex.B1 document was marked.

7. After hearing the arguments on both sides, the trial court dismissed the suit. Aggrieved by the decree and judgment passed by the trial court, the plaintiff has preferred the present appeal among the following grounds :-

8. Grounds of Appeal:-

8.1. The Decree and Judgment passed by the Trial Court is against law, probabilities of the case and weight of evidence.

8.2. The Trial court misconceived about the pleadings and evidences of the parties in arriving wrong conclusion and dismissing the suit.

8.3. The Trial Court ought to have held that, the Appellant/Plaintiff has proved his vendor's title as well as his sale deed marking Ex.A1 and Patta in Ex.A10.

8.4. The Trial Court ought to have accepted the Appellant/plaintiff's one of the vendor PW2 Pandiammal's evidence in toto and granted the decree as prayed for.

8.5. The Appellant/Plaintiff also proved his possession by exhibiting documents as stated in the index of the judgment.

8.6. The Specific case of the Appellant/Plaintiff is the suit property was purchased by one Ayyanan under Ex-B2 dated 11-06-1948 and the said Ayyanan has settled at Burma and died there, whereas Ayyanan's brother Annamalai acquired all properties in the Village in the year 1950 in a oral partition held between the brothers, whereas Ayyanan was given to enjoy the properties purchased in Burma with the contribution of the Annamalai's income in the village. There was no contra evidence as against this pleading as well as evidence of PW1 and PW2 on the side of the defendant.

8.7. Further it was specifically pleaded that, Annamalai was enjoying the suit property and other properties in the village as his own

till his lifetime and after his lifetime his only son Periyakaruppan succeeded and was enjoying the suit property as well as other properties as his father was enjoying and after the demise of Periyakaruppan his only son Muthurasu succeeded and was enjoying the properties as like his father till his life time and Patta was enumerated in the name of Muthurasu in Patta No.1144 and he was paying Kist to the Government and Mutharasu died on 05-05-2010 and the Appellant/Plaintiff's veddor as in Ex-A1 sold the suit property to the plaintiff on 13-03-2016 and the sale deed in Ex-A1 acted upon and the Appellant/Plaintiff is enjoying the suit property as the absolute owner of the property. The Trial Court miserably failed to consider the specific pleadings as stated in the plaint and deposed in evidence by PW1 and PW2.

8.8. Further it is not uncommon among the Hindu Family members when one of the brother was in Burma and other brother was in village as in this case. The Trial Court ought to have applied the custom and practice prevailed in the village more than 75 years ago and held that Annamalai was allotted the suit property and other properties in the year dividing in oral partition in 1950.

8.9. It is the specific case that right from 1950 the said Ayyanan, after him his son Periyakaruppan and after periyakaruppan his son Muthurasu and after Mutharasu, his wife Pandiammal, daughters Sakthi and Nathiya and son Natrayan succeeded and are enjoying and in possession of the suit property as well as other properties in the village. In the circumstances the Trial Court simply skipped to consider in the tracing out of title and continuous possession for the past 75 years.

8.10. The finding of the Trial Court in its Judgment Para No:5.17 and 5.18 that, no documentary evidences produced to prove the partition of the property between the brothers Ayyanan and Annamalai in the year 1950 and it cannot be believable is unsustainable and against the pleadings and evidence of the Pw1 and Pw2.

8.11. Moreover the finding in Para No:5.18 in the Judgment that, since the property was purchased by Ayyanan's name under Ex-B2, the vendors Sale Deed in Ex-A1 could not have title to execute the sale deed to the Appellant/Plaintiff and there is no explanation how the vendors and what authority they got change of patta in No.1144, is unsustainable and cannot be hold good.

8.12. It is submitted that the reliance of the judgments as mentioned in Para No.5.21, 5.22, 5.23 and 5.24 that Patta is not a document of title and will not prove and etc. will not applicable to the present case. Further Trial Court misconceived about the propositions laid by the Hon'ble Court High Court in the referred Judgments.

8.13. Pertaining Patta is concerned, it is submitted that patta may not be a document of title, but an evidence of title. Further in remote villages the practice prevailed between the family members dividing the properties consequentially change of patta played the vital role to prove the case of the parties, likewise the patta ought to have been accepted as the evidence of title.

8.14. It is submitted that the Appellant/Plaintiff and his vendors proved continuous possession by Pw2's predecessors whereas the defendant curiously coming from Burma by illegal means attempted to grab the properties of Ayyanan on the score that he was the maternal grandson of Ayyanan born in Burma and intruded to the territories of India by illegal travel (a) without any travel documents. Unfortunately the Trial Court though held that the intrusion in India by illegal means and created false and fraudulent documents like Passport in Ex-A16 in a

fake address and fraudulently obtained decree in O.S.No.78/2009 in the Court of the District Munsif Melur marked as Ex-A7, the Trial court ought to have been commented how the property was enjoyed? In the absence of Ayyanan in the village. The rider is that the suit property and other properties in the village were continuously succeeded and enjoyed by Muthurasu and his successors and his predecessors right from the days of Annamalai.

8.15. On the above score the dismissal of the suit on technical grounds an unsustainable. Further the ought to have been initiated criminal prosecution as against the Dwl Shanmuganathan for producing false and fraudulent document in the court of law.

8.16. The Trial Court in Para No:5.25 of the Judgment the comparison of Ex-B1 and suspecting Patta No:1144 in the name of Muthurasu is improbable and cannot be hold good. It is submitted that the Trial Court cannot take the role of the party. When there was no sufficient evidence for the defendant who is also claiming title and the burden of proof would be like the plaintiff to the defendant also. The Application of the above proposition was skipped by the Trial Court.

8.17. Among other documents filed on the side of the defendant were not properly considered by the Trial Court.

8.18. It is submitted that when a party who set up a case on false and fraudulent documents and pleaded, his case has to be rejected in toto.

8.19. The Trial Court ought to have granted the decree of the declaration and permanent injunction in favour of the Appellant/Plaintiff.

8.20. The Appellant/ Plaintiff reserved the right of filing additional grounds of appeal at the time of hearing.

9. The point for determination in the Appeal is :-

(1) Whether the appeal has to be allowed or not?

10. The parties are referred by their ranking before the trial court is taken for the sake of convenience in the appeal. In appeal no witnesses were examined, and no documents were marked on both sides.

11. On the point :-

11.1 This suit has been filed by the appellant/plaintiff for declaring the title of the suit property and for permanent injunction. The suit has been dismissed by the learned District Munsif Court, Melur on 28.08.2025. The suit property is situated in R.S.No.362/14C in Kurichipatti village in Patta No.1144 extending 33 cents (13.5 Ares) nanja lands. The case of the plaintiff/appellant is that the suit property is the absolute property purchased by the plaintiff. Originally the suit property belongs to one Mr.Muthurasu S/o.Periyakaruppan. Patta stands in the name of Mr.Muthurasu in Patta No.1144. The suit property is the ancestral property on the side of Mr.Muthurasu for about 50 years and after the death of Mr.Periyakaruppan , Mr.Muthurasu who is the only son enjoyed the property. Mr.Muthurasu also died on 05.05.2010 leaving behind Mrs.Pandiammal who is the wife and children namely Sakthi, Nadhiya and Nattaryan. After the demisal of Mr.Muthurasu his children enjoyed the suit property after paying kist. The plaintiff on 03.03.2014 purchased the suit property from Mrs.Pandiammal and her children for valuable consideration. Patta also changed in the name of the plaintiff in Patta No.2648. The defendant who is allegedly the friend

of the plaintiff very well aware about the purchase made by the plaintiff. There was a dispute between the defendant and the plaintiff's vendors with respect to the other properties. On compromising the dispute between them by the plaintiff, the defendant on enmity refused for entered into compromise. There is no title or right over the suit property by the defendant but the defendant has made a false complaint as against the plaintiff and his vendors before Keelvalavu Police Station in Crime No.408/2015 on 10.10.2015. This prevented the plaintiff in peaceful enjoyment of the suit property and on 30.12.2016 onwards the defendant is trying to enter into the suit property and the threat continues and hence the suit.

11.2 On the defendant side, it has been stated that the suit property is not that of the property of Mr.Muthurasu S/o.Periyakaruppan as ancestral property and he obtained patta in Patta No.1144 was denied by the defendant. It has been stated that the suit property originally belongs to defendant's grandfather one Mr.Ayyanan as his self acquired property. The defendant is the paternal grandson of Mr.Ayyanan. Mr.Ayyanan on 11.06.1948 purchased the suit property from one Mr.Sundarampillai S/o.Ramasamy Pillai. After

purchase it has been alleged that Mr.Ayyanan went to Burma from Kovilpatti Village and he settled there and he has got Velladurai, Pappu @ Karuppanan, Ayyavu, Muthammal, Sarvammal, Arammal and Bakkiyam as his children. Since the defendant came from Burma in the year 1995 his aunt Mrs.Muthammal married his her daughter Susilla to the defendant. The defendant has been in enjoyment of the suit property after cultivating it with cattle fodder crops. Hence this suit has to be dismissed. There is no right for Mr.Muthurasu or his children or his wife to execute the sale deed with respect to the suit property. In fact, the suit property was leased out to one Mr.Thiyagarajan S/o.Ayyanan in the year 1994. Hence during the UDR Survey, patta was wrongly issued in the name of Mr.Muthurasu and for rectifying the defect petition is pending before DRO. Hence this suit has to be dismissed.

After considering the above pleadings, the trial court has framed three issues as follows :-

1. Whether the suit property belongs to the plaintiff as stated in the plaint ?
2. Whether the plaintiff is entitled to the relief of declaration and consequent relief of permanent injunction against the

defendant as prayed for ?

3. To what other reliefs the plaintiff is entitled for ?

11.3 Considering the case records, the main issue to be decided is whether the suit property is the ancestral property of the plaintiff's vendors Mrs.Pandiammal and her children. Ex.A1 is the sale deed dated 03.03.2014 infavour of Mr.Karuppuchamy who is the plaintiff herein by Mrs.Pandiammal and her children with respect to the suit property. Ex.A2 is the VAO certificate for cultivation of the suit property by the plaintiff. Ex.A3, A4, A5, A6, A7, A8 are the kist receipts issued by VAO Kurichipatti in the name of Mr.Muthurasu. Ex.A9 is the FIR dated 10.10.2015 in Crime No.408/2015 before Keelvalavu Police Station as against Mrs.Pandiammal, Sakthi, Mrs.Nadhiya, Mr.Nattaryan , Mr.Karuppuchamy, Mr.Swaminathan and Mr.Jeyapraksh and the complaint was given by the defendant. Ex.A10 is the patta No.2648 with respect to the suit property in the name of the plaintiff. Ex.A11 is the kist receipt in the name of Mr.Muthurasu.

11.4 On the defendant side, Ex.B1 are the photographs; Ex.B2 is the sale deed dated 26.05.1948 in the name of Mr.Ayyanan

S/o.Karuppananan from one Mr.Sundaram Pillai S/o.Ramasamy Pillai with respect to S.No.362/14C extending 33 cents along with other properties. Ex.B3 is the encumbrance certificate. Ex.B4 is the encumbrance certificate. Ex.B5 is the Resurvey and Re-settlement register of Kurichipatti Village S.No.362/14C standing in the name of Mr.Ayyanan S/o.Karuppanan. Ex.B6 is the adangal for S.No.362/14C for the fasli year 1382 standing in the name of Mr.Ayyanan. Ex.B7 is the legal heirs suit decree in OS.No.78/2009 before the learned District Munsif Court, Melur declaring that the defendant is the legal heir of the deceased Mr.Ayyanan. Ex.B8 is the legal heirship certificate of Mr.Ayyanan showing that he is the legal heir of the deceased Mr.Ayyanan. Ex.B9 is the sale deed dated 19.08.2003 infavour of one Mr.Thirupathi by one Mr.Thiyagarajan and Mr.Kamalam with respect to S.No.362/15C, S.No.362/15D in Kurichipatti Village. Ex.B10 is the unregistered othi deed dated 15.02.2006 executed between Mrs.Aarammal and the defendant with respect to S.No.362/14C, 33 cents which is the suit property and other properties. Ex.B11 is the order copy of the Hon'ble High Court of Madras in Crl.OP (MD).No.21906/2016. Ex.B12 is the petition given by the defendant as

against Mr.Muthurasu for change of patta before the RDO, Madurai. Ex.B13 is the counter filed by Mrs.Pandiammal W/o.Muthurasau in the above petition pending before RDO, Madurai. Ex.B14 is the Aadharcard of the defendant. Ex.B15 is the Voter ID of the defendant. Ex.B16 is the passport of the defendant.

11.5 Hence from the above records and evidences, it is found that the suit property was purchased by one Mr.Ayyanan S/o.Karuppanan by way of a registered sale deed dated 26.05.1948 for a sum of Rs.1872/- along with other properties from one Mr.Sundaram Pillai S/o.Ramasamy Pillai. It is evident from Ex.B2 document. The defendant has filed the legal heirship certificate as well as the decree from the civil court declaring that the defendant Mr.Shanmuganathan is the legal heir of the deceased Mr.Ayyanan. It is evident from Ex.B7 and B8 documents. Ex.B6 is the adangal standing in the name of Mr.Ayyanan for the fasli year 1382. Ex.B5 is the Resurvey and Re-settlement register showing that the suit property in S.No.362/14C extending 33 cents standing in the name of Mr.Ayyanan. On the plaintiff side, there is no record filed by the plaintiff to show that the suit property is the ancestral property of the deceased Mr.Muthurasu or his

forefathers. There is no record filed on the plaintiff side to show that Mrs.Pandiammal is the wife of Mr.Muthurasu or Mrs.Sakthi, Mrs.Nadhiya, Mr.Nattaryan are the children of Mr.Muthurasu. The kist receipts marked on the plaintiff/appellant side are issued by the Village Administrative Officer and not by the Tahsildar. Ex.A10 is the patta standing in the name of the plaintiff in Patta No.2648. It is the well settled principle of law that patta is not the document of title. There is a clear sale deed marked as Ex.B2 in the year 1948 in the name of Mr.Ayyanan S/o.Karuppanan. Eventhough PW2 Mrs.Pandiammal stated that the property was jointly purchased by Annamalai and Ayyanan, there is no such recital in Ex.B2 sale deed. It is well settled that the original owner of the suit property is Mr.Ayyanan S/o.Karuppanan and not Mr.Muthurasu or Mr.Annamalai. There is no evidence adduced on the plaintiff/appellant side to establish that the suit property is the ancestral property of Mr.Muthurasu S/o.Periyakaruppan or Mr.Annamalai who is related to Mr.Ayyanan. There is no pleadings about the joint purchase made by Annamalai and Ayyanan in the plaintiff. Hence in the absence of title deeds and other records of heirship, the suit has been dismissed rightly by the learned District

Munsif Court, Melur. As per Section 92 of Indian Evidence Act; No oral evidence shall be admitted, as between the parties to any such instrument or deed for the purpose of contracting which is in writing. Hence the plaintiff failed to establish his title over the suit property and there is no plea taken on the plaintiff side to show that the vendors of the plaintiff were related to one Mr.Annamalai brother of Mr.Ayyanan. Hence without any title over the suit property, the patta marked as Ex.A10 in Patta No.2648 in the name of the plaintiff is not the document of title. No better title can be passed by one person who is not the true owner of the property. Hence it is the established principle of law that no one can pass a better title than what he himself possess. Hence either Mr.Muthurasu or his legal heirs have no right or title over the suit property is clearly proved from the evidence adduced on the defendant side namely Ex.B2 sale deed, Ex.B3 and B4 encumbrance certificate, Ex.B5 is resurvey and resettlement register. Hence the plaintiff/appellant failed to establish his title over the suit property. Hence this court need not want to interfere with the judgment and decree delivered by the learned District Munsif Court, Melur in OS.No.4/2017 dated 28.08.2025.

12.Result :-

In the result, this appeal is dismissed. Confirming the decree and judgment passed by the learned District Munsif Court, Melur in OS.No.4/2017 dated 28.08.2025. No costs.

Directly dictated to the Steno-typist, and typed by her, corrected and pronounced by me, this the 24th day of April 2026.

Appellate Authority/
Subordinate Judge,
Melur.

LIST OF WITNESSES AND DOCUMENTS ON BOTH SIDES: NIL

Appellate Authority/
Subordinate Judge,
Melur.

Copy to

The District Munsif, Melur.

**Draft/Fair
Judgment
A.S.No.35/2025
in
O.S.No.4/2017
Dt: 24.04.2026
Sub Court, Melur**