



**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM,
THE NILGIRIS**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Wednesday, the 17th day of June 2026

O.S. No. 82 of 2015
(C.N.R. No. TNNS030 - 00108 – 2015)

B. Deguramma

... Plaintiff

/Vs/

1. K.P. Raju (**Since Deceased**)*
2. R. Pradeep Kumar (**Since Deceased**)*
3. Renuga*
4. R. Bharathi*
5. R. Anitha*
6. R. Aswini*
7. Depo Chandran @ Chandran*
8. Sruthi*
9. Minor P. Deepika*

... Defendants

***(Amended as per Order in I.A. No. 453/2016 dated 21.10.2016)**

***(Amended as per Order in I.A. No. 579/2016 dated 19.01.2017)**

***(Amended as per Order in I.A. No. 01/2024 dated 29.04.2024)**

This suit came on 12.06.2026 for final hearing before me in the presence of Mr. C. Yesuraj, learned Counsel for the Plaintiff and of Mr. H. Bheemaraj, learned Counsel appearing for the Defendants No. 3 to 6, 8 and 9 and of Mr. P. Rangaswamy, learned Counsel for the Defendant No. 7 and the



Defendants No. 1 and 2 reported dead, upon hearing the both side arguments, and upon having stood over till this day for consideration, and this court delivered the following:

JUDGMENT

1. This suit is filed by the plaintiff for the relief of permanent injunction, restraining the defendants, their men, agents, or anybody claiming through them in any way not to obstruct the right of way set out in the document No. 239/11 and 1347/14 and not to disturb and interfere with the plaintiff's suit schedule property and to award costs of the suit.

Gist of Plaintiff:

2. The plaintiff states that, she is the absolute owner of the suit schedule property, which is a dwelling house. On 18.02.2011, her son namely Mr. Vinoth Gandhi purchased an extent of 0.04-2/16 acres of House site (1800 sq. ft.) from the defendants with specific boundaries with right of way under a registered Sale Deed (Doc. No. 239/2011) before the Joint I Sub-Registrar of Ootacamund. The said Sale Deed showing the suit schedule property was coloured as Red, while the right of way was coloured as Green. The said right of way branching from the Ootacamund Municipal Main Road ended with the plaintiff's property, is the only access to the suit property and is essential for reaching the property. After the purchase, the plaintiff's son obtained necessary approval from the Ootacamund Municipality and constructed a double-storeyed building on the property. The said construction was approved through proceedings dated 19.01.2012 and the building was assigned Assessment No. 10582 and D. No. 81/C.

3. The plaintiff further submits that, on 04.12.2014, the plaintiff's son, Vinoth Gandhi executed a registered Gift Settlement Deed (Doc. No. 1347/2014) in



favour of the plaintiff before the Joint I Sub-Registrar, Ootacamund. By virtue of the Gift Deed, the plaintiff became the absolute owner of the suit schedule property, the deed showing the suit property was coloured as Red, while the right of way was coloured as Yellow. Thereafter, all revenue and municipal records were mutated in the plaintiff's name. The right of way branching from the Ootacamund Municipal Road to the suit property is only right of and a motorable road, which is 4 mtr. in length and 80 mtr. in breadth and has been used peacefully by the plaintiff and her son since the purchase without any obstruction. However on 24.04.2015, the defendants, who are vendors under Doc. No. 239/2011, threatened to obstruct and block the said right of way. Apprehending imminent interference, particularly during the court vacation, the plaintiff, being an aged lady, was left with no alternative but to file the present suit for permanent injunction restraining the defendants from obstructing her right of way set out in the Doc. No. 239/2011 and 1347/2014. Hence the suit.

Gist of Written Statement:

4. The written statement is filed by the 2nd defendant, was adopted by the defendants 1, 8 and 9, they contend that the suit is false, frivolous, vexatious and not maintainable either in law or on facts. The defendants admitted that the plaintiff's son Vinoth Gandhi purchased an extent of 0.04-2/16 acres of house site (1800 sq. ft.) with specific boundaries with a right of way from them through a registered sale deed (Doc. No. 239/2011). Regarding the disputed right of way, the defendants state that they had no knowledge of the sketch attached to Doc. No. 230/2011, which was allegedly prepared by the plaintiff's husband, a former Head Surveyor in Udthagamandalam Taluk. They claim that upon discovering errors and misdirection in the sketch, they questioned the plaintiff's husband, who allegedly admitted the mistake concerning the right of way. Subsequently, a fresh agreement was entered into between the plaintiff's husband and the 1st defendant, under which the plaintiff's husband consented to the use of an alternative pathway.



5. The defendants further deny the plaintiff's averments relating to the Gift Deed, Municipal approval, and alleged right of way, asserting that neither the plaintiff nor her son has ever used the claimed pathway. They argue that the cause of action is false, the plaintiff is not in possession of the alleged right of way, the court fee paid is incorrect, and that a mere suit for injunction is not maintainable without seeking a declaration of title and possession. The plaintiff has no locus standi to file the suit, and the suit is bad for misjoinder of parties. The description of the suit property mentioned in the plaint is incorrect, and the extents alleged to be owned and possessed within the alleged boundaries as given against each item of suit property is denied. Hence they pray to dismiss the suit with cost.

Gist of Written Statement of Defendant No. 7:

6. The 7th defendant in his written statement contends that, the suit schedule property has been incorrectly described, it is alleged that the plaintiff's claim of ownership over 23 cents of land is inaccurate, and there is inconsistency between the extent of land owned and the extent for which injunction is sought. The boundaries mentioned in the suit schedule are erroneous, particularly the eastern and northern boundaries, which are stated to be imaginary. On this basis, the 7th defendant argues that the physical features and boundaries of the property are false. The 7th defendant also denies any connection in the suit property comprised in R.S. No. 1544/1 or R.S. No. 1544/1D or T.S. No. C/25/45, and disclaims any involvement with the land measuring 0.37.70 hectares or 0.23 acres of land together with the building bearing Door No. 81/A or 0.04-2/16 acres with building etc. The 7th defendant is neither a party nor a signatory to any of the sale deeds, plans, settlement deeds, or other documents relied upon by the plaintiff.

7. Further, the 7th defendant claims title through his father, Rangaiah, who owned 83 cents of land out of 3.58 acres in S. No. 1535/1, the property consisted of



80 cents is a flat land and 3 cents forming a channel. The land was allotted to Rangaiah under a registered partition deed dated 20.02.1956, and after his death, the other legal heirs executed a registered release deed in favour of the 7th defendant on 30.04.1981. The property originally had no motorable access and was situated about 15 feet below the municipal road. After obtaining title, he secured subdivision of the land into R.S. No. 1535/1A2, constructed a bridge to cross the channel, and formed an access road at his own expense. He then devolved the 80 cents into 16 plots, reserving approximately 7-8/16 cents as a common road for access to all his plots. Most of these plots were subsequently sold and residential houses were constructed thereon.

8. The 7th defendant further contends that the said road is a private road formed within his 80 cents and that neither the plaintiff nor her predecessor in title has any right over it. He asserts that the right of way shown in the plaintiff's documents is imaginary and that the plaintiff's property in R.S. no. 1544 is situated separately and at a higher elevation of 15 feet, with no physical connection to the defendant's road. Consequently, the plaintiff is claimed to have no right or way through the defendant's property. He further alleges collusion between the plaintiff and the 1st defendant in creating documents depicting his private road as an access road to lands in R.S. No. 1544/1D. He maintains that the road was laid solely for the benefit of his own plots and was never intended to serve the plaintiff's or 1st defendant's properties. The 7th defendant also alleges that the sale deed in favour of the 1st defendant contains a fraudulent and fabricated claim regarding a road access through his land. He states that neither the plaintiff nor the 1st defendant has any legal right to use the road or bridge constructed by him at his own cost.

9. According to him, there is no common or public road passing through his property, and the alleged right of way has been falsely concocted to claim access over



his land. Even assuming the plaintiff or the 1st defendant has any right of way, it is limited to a 6 feet pathway situated on the eastern side S. No. 1535/1A3 and western side of 1534 through third party lands. Accordingly, the plaintiff and 1st defendant have no right whatsoever over the motorable road formed by him at his own cost, which is a private road and not a public or municipal road. Further, the sale deed relied upon by the 1st defendant and the right of way claimed in the plaint are false, and that a fabricated sketch has been created and annexed to the sale deed to unlawfully claim a right of over his property. He asserts that the road branching from the main road was exclusively laid by him and remains his private property. The 7th defendant also denies the allegations regarding municipal approval, contending that the approved plan and the alleged road shown therein are based on fabricated documents and have no connection with his property or rights.

10. Further, he denies the averments relating to the plaintiff's title and gift settlement deed, he alleges that even the gift settlement deed executed by the plaintiff's son, Vinoth Gandhi, in favour of the plaintiff was created to support a false claim over his property. He maintains that the alleged road referred to in the sale deed and settlement deed is imaginary and that the plaintiff has no lawful right of way through his land. The details of sketch referred in Doc. No. 239/2011 and 1347/2014 are imaginary, neither the 1st defendant nor any other defendants have any right to demarcate his road on their document. The plaintiff has not approached the court with clean hands, the plaintiff and the deceased defendants 1 and 2 conspired to create a false sketch with malicious intent to claim rights over his private property and a road he laid using his own land nearly 13 cents. The suit as framed is unsustainable and the same has been ventured to create a right over his land and road and is liable to be dismissed with cost.

**Issues framed:**

11. On consideration of the pleadings of both sides this court framed the following issues:

- (i) *Whether the plaintiff is in possession and enjoyment of the suit property?*
- (ii) *Whether the plaintiff is entitled to get relief of bare injunction as prayed for?*
- (iii) *What other relief is entitled for?*

Plaintiff's side evidence:

12. On the side of the plaintiff, the plaintiff **Mrs. B. Deguramma**, examined herself as **Pw-1**, through her **Ex. A-1 to Ex. A- 11** were marked. The Pw-1 was cross examined by the defendants 3 to 9 side in full. The evidence of the plaintiff's side is closed with Pw-1.

Defendants' side evidence:

13. On the side of the defendants 3 to 6, 8 and 9, the 8th defendant, **Ms. Sruthi**, examined herself as **Dw-1**, through her no exhibits were marked. The Dw-1 was cross examined by the plaintiff and the 7th defendant's side in full. The evidence of the defendants' 3 to 6, 8 and 9 side is closed with Dw-1.

14. On the side of the 7th defendant, the 7th defendant, **Mr. Depo Chandran @ Chandran**, examined himself as **Dw-2**, through him, **Ex. B-1 to B-5** were marked. The Dw-2 was cross examined by the plaintiff's side in full, the defendants 3 to 6,8 and 9 submitted no cross for Dw-2. The evidence of the 7th defendant side is closed with Dw-2. Hence the case posted for both side arguments.

**Plaintiff's side Arguments:**

15. The learned counsel for the plaintiff submitted that the plaintiff is the absolute owner of the suit schedule property of measuring 0.04-2/16 acres together with the building bearing D. No. 81/C, vide a Gift Settlement Deed dated 04.12.2014 (Doc. No. 1347/2014) executed by her son, marked as Ex. A-2. The plaintiff's son derived title to the suit schedule property vide a Sale Deed dated 18.02.2011 (Doc. No. 239/2011) executed by the 1st defendant late K.P. Raju, marked as Ex. A-1. The plaintiff claims they were granted a right of way (80 feet length and 12 feet breadth) branching from the Udhagamandalam Municipal Road to reach her property. On 24.04.2015, the 1st and 2nd defendants allegedly attempted to block the right of way, leading the plaintiff to file a suit for permanent injunction, to prevent any obstruction. During the legal proceedings, both the first and second defendants passed away, and their legal heirs were impleaded as defendants 3 to 6, 8 and 9, and the 7th defendant threatened to block the right of way, he has also impleaded in the suit.

16. The learned Counsel for the plaintiff further contended that, the defendants 1 to 6, 8 and 9' contention are, they were unaware of the specific sketch attached to the sale deed bearing doc. No. 239/2011. The sketch was prepared by the plaintiff's husband, a retired surveyor, and the sketch contained mismarking, the defendants claim that when the error was discovered, the plaintiff's husband apologized and agreed to use an alternative right of way instead. As the defendants alleged that the suit for bare injunction is not maintainable and the plaintiff ought to have filed a suit for declaration. The 7th defendant also states that, he has no connection with the suit survey filed in R.S. no. 1544/1 or R.S. No. 1544/1D corresponding T.S. no. C/25/45 or building bearing D. No. 81/C or 0.04-2/16 acres. He is not a party to any sale or gift deeds executed in favour of the plaintiff and is not a signatory to any documents filed by them. He asserts his ownership of 83 cents



of land in S. No. 1535/1 of Udhagamandalam Town, acquired via registered partition deed and a subsequent release deed from his siblings after their father, Rangiah's passing.

17. The learned Counsel further submitted that, the 7th defendant claims to have constructed a bridge over a channel on his land to connect it to the Municipal Road, and has developed his land into 16 plots, earmarking a portion for a private approach road. The 7th defendant clarifies that the plaintiff's land is on the southern side of his property at a significantly different elevation (15 feet height) and does not connect to his private road. The 7th the defendant also contends that the plaintiff and the 1st defendant colluded to create false documentation, and alleges they are attempting to misrepresent his private road as a public approach road for their own land in R.S. No. 1544/1D. The right of way mentioned by the 1st defendant in the sale deed are imaginary and concocted to claim an access over the suit property, that if any right of way exists, it is limited to a 6 feet path on eastern side of S. No. 1535/1A3 and western side of S. No. 1534.

18. The learned Counsel further submitted that, the plaintiff's evidence consisting of her chief affidavit (Exhibit A1 to A11), that 1. Certified copy of Sale deed dated 18.02.2011, 2. Certified copy of Gift Settlement deed dated 04.12.2014, 3. Proceedings of the Tahsildar dated 23.04.2015, 4. Property Tax Receipt, 5. Chitta Extract, 6. Certified Copy of the Sale deed dated 10.08.1944, 7. Certified Copy of Partition deed dated 20.02.1956, 8. Extract of the survey settlement register obtained under the RTI Act, 9. Web copy of the Encumbrance Certificate, 10. Proceedings of the Tahsildar obtained under the RTI Act and 11. Proceedings of the Commissioner Udhagamandalam Municipality obtained under the RTI Act. While the defendants 1 to 6 and defendants 8 and 9 did not mark any documents on their side. The 7th defendant marked 5 documents (Ex. B1 to B5), 1. Certified copy of the Sale deed



dated 16.06.1948, 2. Certified copy of the Release Deed dated 30.04.1981, 3. Certified copy of the partition deed dated 20.02.1956, 4. True copy of the orders passed by the Tahsildar Udhagamandalam dated 02.05.2000 and 5. TSLR Extract of Survey No. 37/3 in Block 25 of Ward – C.

19. The learned Counsel further submitted that, Ex. A-1 sale deed was executed by D1 and D2 in respect of 0.04-2/16 acres of land in favour of the plaintiff's son Vinoth Gandhi, the central issue concerns a 12-foot wide right of way granted to the plaintiff's house leading to the main Udhagamandalam Municipality Road. The plaintiff asserts this right is legally established, while the defendants dispute its validity. The contradictory defense that, the defendants claim that they never intended to grant the right of way and suggest the plan was clandestinely inserted into the sale deed, however, the plaintiff argues this is contradicted by 1st defendant's own subsequent letter (Ex. A-11) affirming the grant. If, the plaintiff's husband had clandestinely inserted the plan in the sale deed by inserting the 12 feet right of way in the sketch, the 1st defendant would not have given a letter 6 months after execution of the sale deed to Udhagamandalam Municipal Commissioner.

20. The learned Counsel further submitted that, the witness Dw-1 (Ms. Sruthi) admitted during cross-examination that she uses the 12-foot right of way shown in Ex. A-1 to reach the main Municipal road from the plaintiff's house. The defendants' son-in-law (Ravichandran and Santhosh) signed the deed as witnesses, which the text argues serves as their acceptance of the document's terms. The defendants 1 and 2 explicitly granted this 12-foot wide right of way to the plaintiff with full knowledge of the deed's contents. The evidence from the cross-examination of Dw-1 and the signed sale deed (Ex. A-1) clinchingly supports the plaintiff's claim, it establishes that the plaintiff has been in continuous use and enjoyment of the 12-foot right of way. The Dw-2, in his cross-examination has stated the alternate right of



way is infested with thick undergrowth and is unusable at the present. This further strengthens the plaintiff's case that the plaintiff is entitled to the right of way passing through S. No. 1535/1A2 of Udhagamandalam Town to reach the main Kodappamund Road as an easement of necessity.

21. It is further argued that, Ex. A-7 (also Ex. B-3) is a partition deed entered between the 7th defendant's father and his brothers on 10.08.1944, while this deed confirms the joint family's entitlement to various properties measuring 0.33 5/8 dismal in S.No. 1277 and 1278 of Udhagamandalam Town vide registered sale deed dated 24.09.1947, another extent 0.13-15/16 acres comprised in R.S. No. 1538 and 1544/1 of Udhagamandalam Town. 1.70 dismal of land in R.S. No. 1544/B and S. No. 4170 and 4171 of Ootacamund Town by virtue of a Doc. No. 380/1955. The recitals do not mention acquiring of land in S. No. 1535 of Udhagamandalam Town, Ex. A-6 is the certified copy of the sale deed dated 10.08.1944, this does not show any purchase of land in S. No. 1535 of Udhagamandalam Town. In spite of lack of title for land in R.S. No. 1535 of Udhagamandalam Town, the 7th defendants' father was allotted 80 cents in partition deed. The plaintiff contends that the 7th defendant has already alienated substantial portions of the property covered under the relevant Town Survey numbers and therefore, has no subsisting right or authority over the road used by the plaintiff and the general public. The plaintiff relies on the encumbrance certificate, revenue records, Tahsildar's report, and other exhibits to show that portions of the land are classified as Government poramboke and channel land, and that the Municipality's name was originally reflected in the revenue records.

22. The plaintiff's Counsel further submits that the suit pathway in R.S. no. 1535/1A has existed from time immemorial and has been continuously used by the plaintiff, neighbouring landowners, and the plaintiff's predecessors in title without obstruction. The sale deeds executed by the defendants themselves describe a 12-foot



common road as a boundary, and this fact was also admitted by D.W.2 during cross-examination. Accordingly, the plaintiff asserts that the existing right of way through R.S. No. 1535/1A2 continues to be the lawful access route, while the alternative pathway suggested by the defendants has never been in use. The usage of the 12 feet right of way running through R.S. No. 1535 is admitted by Dw-1 and Dw-2, that the alternate road is infested with undergrowth and are unusable. Therefore the right of way for the plaintiff in S. No. 1535/1A2 is also by virtue of necessity as there is no other right of way to the plaintiff's hosue. Hence the plaintiff prays to decree the suit as prayed for.

Defendants 3 to 6,8 and 9 side Arguments:

23. The learned counsel appearing for the defendants 3 to 6, 8 and 9 vehemently contended that the plaintiff has absolutely no manner of right, title or interest over the alleged 12 feet right of way claimed in the suit and that the entire claim put forth by the plaintiff is based upon incorrect recitals and a misleading sketch appended to Ex.A-1 Sale Deed and Ex.A-2 Settlement Deed. According to the learned counsel, the deceased 1st defendant K.P. Raju, who along with the deceased 2nd defendant executed Ex.A-1 in favour of the plaintiff's son, had no knowledge whatsoever regarding the sketch annexed to the said sale deed. It was specifically argued that the said sketch was prepared by one Raman, the husband of the plaintiff, who had retired from service as a Head Surveyor, and the same was incorporated without the knowledge and consent of K.P. Raju.

24. The learned counsel further submitted that only subsequently, when K.P. Raju came to know that the sketch annexed to the document depicted a 12 feet common right of way, which had never been intended to be conveyed by him under the sale deed, he questioned Raman regarding the same. Thereupon, Raman is stated to have admitted the mistake and agreed that the plaintiff and her family would use



only the alternative access available to the suit property and not insist upon the alleged 12 feet right of way. It was further argued that the plaintiff has deliberately suppressed the existence of the alternative pathway available to the suit property and has falsely projected before this Court that the disputed 12 feet pathway is the sole means of ingress and egress. According to the learned counsel, such suppression of material facts disentitles the plaintiff from claiming the equitable relief of permanent injunction.

25. The learned counsel for defendants 3 to 6, 8 and 9 further contended that the alleged 12 feet right of way is admittedly situated in Old Survey No.1535/1A2, which does not belong either to the plaintiff or to her predecessors-in-title. According to the defence, the said land belongs to the 7th defendant and neither K.P. Raju nor his ancestors nor his legal heirs had any right, title or interest over the same. It was therefore argued that K.P. Raju and his predecessors, not having any right over the land comprised in Old Survey No.1535/1A2, were legally incompetent to create or convey any right of passage through the said property in favour of the plaintiff's son under Ex.A-1. Consequently, the plaintiff, claiming through the said document, cannot assert any better right over the disputed pathway.

26. The learned counsel also submitted that the plaintiff has failed to produce any antecedent title deed, revenue record or public document to establish that the vendors of her son had acquired any lawful right over the alleged 12 feet pathway or that they were entitled to convey the same. It was argued that the recitals contained in Ex.A-1 and Ex.A-2, by themselves, cannot confer a legally enforceable right when the executants themselves lacked title or authority over the property in question. The learned counsel further contended that the plaintiff has not produced any acceptable evidence to prove her actual possession and enjoyment of the alleged 12 feet right of way. No independent witness from the locality has been examined to establish that



the plaintiff had been continuously using the said pathway. Likewise, no commissioner's report, photograph or other documentary evidence has been produced to prove the existence and user of the alleged pathway by the plaintiff.

27. It was also argued that the original vendors themselves had specifically disputed the existence of the alleged 12 feet right of way and that after their demise, defendants 3 to 6, 8 and 9, being their legal representatives, have consistently maintained the very same stand. Therefore, the plaintiff's alleged right over the disputed pathway is under a serious cloud and cannot be adjudicated in a suit framed merely for bare injunction. The learned counsel further submitted that when the plaintiff's alleged right itself has been seriously disputed by the vendors, their legal heirs and the 7th defendant, the proper remedy available to the plaintiff was to seek a declaration of her alleged right over the disputed pathway along with consequential injunction. The present suit, filed simpliciter for permanent injunction without seeking declaration of the alleged right of way, is therefore not maintainable in law.

28. On the above grounds, the learned counsel appearing for defendants 3 to 6, 8 and 9 submitted that the plaintiff has failed to establish either a legally enforceable right or actual possession in respect of the alleged 12 feet pathway. According to him, the plaintiff has approached this Court suppressing material facts and seeking to enforce a right which neither her vendors nor their predecessors possessed. Therefore, it was prayed that the suit be dismissed in its entirety with exemplary costs.

7th defendant's side arguments:

29. The learned counsel appearing for the 7th defendant contended that the plaintiff has no manner of right, title or interest over the alleged 12 feet right of way claimed in the suit and that the entire suit has been instituted on the basis of an imaginary and non-existent claim. According to him, the plaintiff has neither



established the origin of the alleged right nor proved her possession and enjoyment over the same.

30. The learned counsel submitted that the alleged 12 feet pathway claimed by the plaintiff admittedly lies in Old Survey No.1535/1A2, and the said survey field belongs to the 7th defendant. The plaintiff herself has not disputed the identity of the survey field through which the alleged pathway runs. Therefore, unless the plaintiff establishes that she or her predecessors-in-title had acquired a lawful right over the said survey field, she cannot seek any injunction restraining the true owner from exercising his rights over the property.

31. It was further argued that neither the deceased defendants 1 and 2 nor their predecessors-in-title had any right, title or interest over Old Survey No.1535/1A2. Consequently, they were legally incompetent to create or convey any right of way through the said property in favour of the plaintiff's son under Ex.A-1 Sale Deed. The learned counsel submitted that a person cannot convey a better title or larger right than what he himself possesses and, therefore, the plaintiff cannot claim any enforceable right over the property of the 7th defendant merely based upon the recitals found in Ex.A-1 and Ex.A-2.

32. The learned counsel further contended that the plaintiff has not produced any antecedent title deed, revenue record, partition deed, grant, easement document or any other legally acceptable evidence to establish that the predecessors of defendants 1 and 2 had acquired any right of passage through the property of the 7th defendant. In the absence of proof regarding the source of such right, the recitals contained in Ex.A-1 and Ex.A-2 cannot create any legally enforceable right against the 7th defendant.



33. The learned counsel specifically relied upon **Ex.B-1**, the Sale Deed dated 16.06.1948 executed in favour of Pappanna Gowder, the father of the deceased 1st defendant, and submitted that the said document constitutes the root of title of the predecessors of defendants 1 and 2. The schedule appended to Ex.B-1 specifically recites that the purchaser was entitled only to a **four feet footpath through R.S.No.1535**. There is absolutely no mention of any 12 feet common right of way.

34. According to the learned counsel, if the predecessors of defendants 1 and 2 had really acquired a 12 feet right of way through R.S.No.1535, the same would have been reflected in the earlier title documents. On the contrary, Ex.B-1 recognises only a limited right of passage measuring four feet in width. The plaintiff has failed to produce any subsequent document evidencing enlargement or acquisition of a 12 feet right of way. Therefore, the claim now put forth by the plaintiff is contrary to the very root of title of her alleged vendors.

35. The learned counsel further argued that the plaintiff has failed to prove actual possession and enjoyment of the alleged 12 feet pathway. No independent witness from the locality has been examined to establish continuous user of the said pathway by the plaintiff. No commissioner's report, photographs, municipal records or other documentary evidence have been produced to establish the existence of such a pathway as a common access to the plaintiff's property.

36. It was also contended that the plaintiff's own documents demolish her case. Ex.A-1 and Ex.A-2 disclose the existence of an alternative **6 feet pathway** from the Municipal Road. During cross-examination, Pw-1 admitted that the sketch attached to Ex.A-1 depicted two pathways to the suit property. Therefore, the plaintiff's plea that the disputed 12 feet pathway alone is the only means of access to the suit property is false and amounts to suppression of material facts.



37. The learned counsel further submitted that the plaintiff has not established that the disputed pathway had acquired the character of a public road. No evidence has been adduced to show that the alleged pathway had been used by the public from time immemorial or that it had vested in any local authority. On the contrary, the consistent case of the 7th defendant is that the road formed in his property was intended only for the benefit of purchasers of plots developed by him and not for the benefit of strangers claiming through a different survey number.

38. The learned counsel also distinguished the judgments relied upon by the plaintiff. According to him, the decisions in **T.N. Rajasekaran Vs. State of Tamil Nadu and others** and **M. Rajagopal Vs. Suresh and another** dealt with situations where roads shown in approved or unapproved layouts were sought to be reclaimed by the very developers who had earmarked them for common use. The facts of the present case are entirely different, as the plaintiff is admittedly not a purchaser of any plot from the 7th defendant, nor has she produced any approved or unapproved layout to show that the disputed pathway had been reserved for the benefit of her property.

39. The learned counsel further submitted that the plaintiff's alleged right over the disputed 12 feet pathway has been specifically denied by the original vendors, their legal representatives and the 7th defendant. Thus, the plaintiff's right is under a serious cloud. In such circumstances, the plaintiff ought to have sought a declaration of her alleged right and consequential injunction. A suit simpliciter for permanent injunction, without seeking declaration of the alleged right of way, is not maintainable in law. It was also pointed out that the plaint schedule itself contains discrepancies regarding the extent and description of the suit property. While the plaint schedule refers to an extent of **0.23 acres together with building bearing Door No.81/A**, the plaintiff's own title documents disclose ownership only over an extent of **0.04-2/16 acres (1800 square feet)** together with the building. Despite



specific objections raised by the defendants, the plaintiff failed to rectify the defective description. Therefore, no executable decree can be granted on the basis of such uncertain and inconsistent pleadings.

40. On the above submissions, the learned counsel appearing for the 7th defendant contended that the plaintiff has failed to establish either a legally enforceable right or actual possession in respect of the alleged 12 feet pathway. According to him, the plaintiff has attempted to assert a right over the property belonging to the 7th defendant without proving the source of such right and without seeking the necessary declaratory relief. Hence, it was prayed that the suit be dismissed with exemplary costs as against the 7th defendant.

Points for Consideration:

41. The learned counsel appearing for the plaintiff, the learned counsel appearing for defendants 3 to 6, 8 and 9, and the learned counsel appearing for the 7th defendant were heard at length. The arguments advanced by the learned counsels on either side have been carefully considered. The pleadings of the respective parties, namely the plaint and the written statements, together with the oral evidence of Pw-1 and Dws-1 and 2, and the documentary evidence marked as Exs.A-1 to A-11 and Exs.B-1 to B-5, have also been meticulously perused and appreciated by this Court.

42. The core question that arises for consideration in the present suit is whether the plaintiff is entitled to the relief of permanent injunction as prayed for in the plaint. Since the plaintiff seeks protection of her alleged possession and enjoyment over the suit schedule property, particularly in respect of the disputed 12 feet right of way, this Court is required to determine the existence of such possessory right and the maintainability of the relief sought. For the purpose of effectively adjudicating the controversy between the parties, this Court framed the following issues



for determination: (i) Whether the plaintiff is in possession and enjoyment of the suit schedule property? (ii) Whether the plaintiff is entitled to get the relief of bare injunction as prayed for? (iii) What other relief is the plaintiff entitled to? The discussion, appreciation of evidence and findings of this Court on each of the above issues are set out in the succeeding paragraphs.

Discussion on Issue No. 1 and 2:

43. Issue No.(i) is that, Whether the plaintiff is in possession and enjoyment of the suit schedule property? and the Issue No.(ii) is that, Whether the plaintiff is entitled to get the relief of bare injunction as prayed for? Since both these issues are interconnected and arise out of the same set of facts and evidence, they are taken up together for common discussion.

44. It is the specific case of the plaintiff that the suit schedule property measuring an extent of 0.04-2/16 acres (1800 square feet) together with the residential building originally belonged to her son, Vinoth Gandhi, who purchased the same from the deceased defendants 1 and 2 under the registered Sale Deed dated 18.02.2011 marked as Ex.A-1. According to the plaintiff, under the said sale deed, a 12 feet common right of way branching from the Udhagamandalam Municipal Road leading to the suit property was also conveyed. Thereafter, under the registered Settlement Deed dated 04.12.2014 marked as Ex.A-2, the plaintiff's son settled the said property together with the alleged right of way in favour of the plaintiff.

45. In support of her case, the plaintiff examined herself as Pw-1 and marked Exs.A-1 to A-11. Ex.A-1 and Ex.A-2 establish the flow of title from the deceased defendants 1 and 2 to the plaintiff's son and thereafter to the plaintiff. Exs.A-3 to A-5, namely the proceedings before the Tahsildar, property tax receipt and Chitta extract, support the plaintiff's possession over the suit schedule property. The execution of



Ex.A-1 by the deceased defendants 1 and 2 is not disputed by the contesting defendants. Therefore, this Court finds that the plaintiff has established her possession and enjoyment over the suit schedule property.

46. However, the principal controversy in the present suit relates to the plaintiff's claim over the alleged 12 feet right of way and her entitlement to seek permanent injunction in respect thereof.

47. The plaintiff has specifically pleaded that the disputed 12 feet pathway branching from the Municipal Road is the only access available to the suit property. However, on perusal of Ex.A-1, it is found that while describing the eastern boundary, it is specifically recited as follows: *East – 12 feet common right of way from Municipal Road and the Vendor's house bearing Door No.81/A in R.S.No.1544/1D and New No.C/25/45 and 6 feet path from Municipal Road.* The sketch annexed to Ex.A-1 also depicts not only the 12 feet common right of way but also a separate 6 feet pathway leading from the Municipal Road.

48. Similarly, Ex.A-2 Settlement Deed carries the very same boundary description and the sketch appended thereto also discloses the existence of the said 6 feet pathway. Therefore, the plaintiff's own documents establish that apart from the alleged 12 feet right of way, there existed another 6 feet pathway from the Municipal Road.

49. Despite such recitals, the plaintiff approached this Court with a categorical plea that the disputed 12 feet pathway alone is the only means of access to the suit property. The plaint is conspicuously silent regarding the existence of the 6 feet pathway referred to in Exs.A-1 and A-2.



50. The cross-examination of Pw-1 further assumes significance. Pw-1 deposed as follows: *நான் வாங்கியதாக சொல்லும் நிலத்திற்கு எத்தனை பாதைகள் உள்ளது என்றால் ஒரே பாதைதான் உள்ளது. தற்போது என்னிடம் காட்டப்படும் வா.சா.ஆ.1 கிரையப்பத்திரத்தில் இணைக்கப்பட்டுள்ள வரைபடத்தில் தாவா சொத்திற்கு இரண்டு வழிகள் காண்பிக்கப்பட்டுள்ளது என்றால் சரிதான், ஆனால் அசல் கிரையப்பத்திரத்தில் ஒரு வழிதான் காண்பிக்கப்பட்டுள்ளது."*

51. By the above evidence, Pw-1 asserted that there was only one pathway to the suit property. However, she simultaneously admitted that the sketch annexed to Ex.A-1, shown to her during cross-examination, depicted two access pathways to the suit property. She attempted to explain the same by stating that the original sale deed contained only one pathway.

52. This admission assumes considerable importance. The plaintiff pleaded that the disputed 12 feet pathway was the sole access to the suit property. However, the plaintiff's own evidence discloses the existence of two access routes. Thus, the existence of another pathway is not merely a defence plea but stands substantiated by the plaintiff's own documentary evidence and oral testimony.

53. Though Pw-1 attempted to distinguish between the original sale deed and the certified copy marked as Ex.A-1, no steps were taken by the plaintiff to produce the original document before this Court for verification. Having relied upon Ex.A-1, the plaintiff cannot selectively accept the portions favourable to her and reject the remaining recitals and sketch without satisfactory explanation.



54. Therefore, the evidence of Pw-1 lends support to the defence contention that the plaintiff had failed to disclose the complete facts relating to the access available to the suit property. This contradiction materially affects the plaintiff's plea that the alleged 12 feet pathway alone constituted the only access to the suit property.

55. It is well settled that a party seeking the equitable relief of injunction must approach the Court with clean hands and disclose all material facts. Suppression or non-disclosure of the existence of another access pathway assumes significance in the present case.

56. Another important aspect requiring consideration is that the deceased defendants 1 and 2 themselves, who were the vendors under Ex.A-1, specifically pleaded that they had no knowledge regarding the sketch appended to the sale deed and that the same had been prepared by the plaintiff's husband, who was a retired surveyor. According to them, upon noticing the alleged fraud and misdirection in the sketch, they questioned the plaintiff's husband and thereafter a fresh arrangement was entered into, whereby the plaintiff's husband agreed to use an alternative pathway instead of claiming the disputed right of way.

57. Once such a specific plea had been raised by the original vendors disputing the existence of the disputed 12 feet pathway, the burden shifted upon the plaintiff to establish her actual possession and enjoyment of the alleged pathway as on the date of filing of the suit.

58. Except producing Ex.A-1, Ex.A-2 and the approved building plan, the plaintiff has not adduced any independent evidence to establish her possession and user of the disputed 12 feet pathway. No neighbouring landowners or independent witnesses have been examined. No commission report, photographs or other evidence demonstrating actual user have been produced.



59. Therefore, mere production of Ex.A-1, Ex.A-2 and the approved building plan cannot, by themselves, be construed as conclusive proof of the plaintiff's possessory right over the disputed 12 feet pathway, especially when the very vendors who executed Ex.A-1 subsequently denied such right.

60. It is an admitted position that the alleged 12 feet right of way is situated in Old Survey No.1535/1A2. The specific case of the 7th defendant is that the said survey field belongs to him and that the road therein was formed by him for the benefit of purchasers of plots developed by him.

61. Significantly, the plaintiff has not disputed that the disputed pathway lies within the said survey field. When such is the admitted factual position, neither the vendors of the plaintiff's son nor the plaintiff and her husband could have created a right of way through the property of the 7th defendant without his consent or without establishing that the vendors themselves possessed a legally transferable right over the same.

62. The plaintiff has not produced any document to establish that the deceased defendants 1 and 2 had any right, title or interest over the alleged 12 feet right of way situated in Old Survey No.1535/1A2 or that they were legally entitled to convey such right.

63. It is a settled principle that no person can convey a better title than what he himself possesses. In the absence of proof that the vendors themselves possessed a transferable interest in the disputed pathway, the plaintiff cannot claim a better right than that of her predecessor-in-title.

64. The plaintiff has also failed to establish that the disputed pathway had acquired the character of a public road by long, uninterrupted and common user. No



witness has been examined to establish that the alleged pathway was in existence from ancient times and was commonly used by the public.

65. The learned counsel for the plaintiff relied upon the judgment of the Honourable High Court of Madras in *T.N. Rajasekaran Vs. State of Tamil Nadu and others in W.A.No.1525 of 2001*. However, the said case related to roads earmarked in approved layouts. In the present case, the plaintiff is admittedly not a purchaser of any plot from the 7th defendant and there is no material to establish that the disputed pathway formed part of any approved layout. Hence, the ratio laid down therein is in-applicable.

66. The learned counsel for the plaintiff further relied upon the decision in *M. Rajagopal Vs. Suresh and another, C.M.P.(MD) No.7918 of 2019*, wherein it was held that once a layout has been created and a portion shown as a road, the developer cannot thereafter claim private ownership over the same even if the layout is unapproved.

67. There can be no dispute regarding the said proposition of law. However, the present case stands on a different footing. The plaintiff is not a purchaser from the 7th defendant. According to the 7th defendant, the disputed road belongs to purchasers of plots formed by him. No approved or unapproved layout has been produced by the plaintiff to establish that the disputed pathway was reserved for the benefit of the plaintiff's property. Therefore, the said judgment is distinguishable on facts.

68. Yet another circumstance weakening the plaintiff's claim is the recital found in Ex.B-1, the Sale Deed dated 16.06.1948 executed in favour of Pappanna Gowder, the father of the deceased 1st defendant. The schedule therein recites: *North – R.S.No.1535; South and West – R.S.No.1544/1 part; East – R.S.No.1544/1 part foot*



path. The right of way to the land sold is through R.S.No.1535 East to West four feet in width and through R.S.No.1544/1 on the Eastern and Northern side, the foot path passing through R.S.No.1535 should be fenced by the purchaser on either sides, i.e., East and West, to avoid trespass of animals etc."

69. The above recital assumes significance because the plaintiff traces her claim through the successors of Pappanna Gowder. Ex.B-1 recognises only a four feet pathway through R.S.No.1535 and makes no reference whatsoever to any 12 feet right of way.

70. If really the predecessors-in-title of defendants 1 and 2 had acquired a 12 feet right of way through R.S.No.1535, the same would ordinarily have found place in the earlier title documents. The plaintiff has not produced any document evidencing enlargement of the said four feet pathway into a 12 feet common right of way.

71. Therefore, Ex.B-1 probabilises the defence case that the predecessors of defendants 1 and 2 had only a limited right of passage and not the 12 feet common right of way now claimed by the plaintiff.

72. Another important aspect which goes to the root of the maintainability of the suit is that the alleged 12 feet right of way claimed by the plaintiff has been specifically and categorically denied by the deceased defendants 1 and 2, their legal heirs and also by the 7th defendant.

73. Thus, the plaintiff's alleged right over the disputed pathway is not a case of mere interference with admitted possession. The very existence, origin, extent and legality of the plaintiff's alleged right have been seriously and substantially disputed. The plaintiff's right over the disputed pathway is therefore under a serious cloud.



74. It is well settled that where the title or right claimed by the plaintiff is under a cloud and a bona fide dispute exists regarding such right, a mere suit for bare injunction is not maintainable. The proper remedy is to seek declaration of such right along with consequential injunction.

75. Despite the categorical denial by the original vendors, their legal heirs and the 7th defendant, the plaintiff has chosen to file the present suit merely for permanent injunction without seeking declaration of her alleged right over the disputed pathway.

76. Therefore, this Court holds that the suit, insofar as it relates to the alleged 12 feet right of way, is not maintainable as a bare suit for injunction without seeking the relief of declaration.

77. Yet another objection raised by the defendants pertains to the correctness of the suit schedule. In the plaint schedule, the plaintiff described the property as an extent of 0.23 acres together with building bearing Door No.81/A. However, Ex.A-1 and Ex.A-2 reveal that the plaintiff's predecessor had acquired only 0.04-2/16 acres (1800 square feet) together with the building.

78. Thus, there exists a material inconsistency between the plaint schedule and the plaintiff's own title documents. Though the same may appear to be a typographical error, the plaintiff failed to amend the plaint despite the specific objection raised by the defendants.

79. The identity and description of the property sought to be protected by injunction must be certain and free from ambiguity. Unless the plaint schedule is corrected, no effective and executable decree can be passed.



80. Therefore, even on this ground, the plaintiff is not entitled to the discretionary relief of permanent injunction in the present form of the suit.

81. Upon an overall appreciation of the oral and documentary evidence, this Court holds that the plaintiff has succeeded in establishing her possession and enjoyment over the suit schedule property measuring 0.04-2/16 acres together with the building standing thereon.

82. However, the plaintiff has failed to establish her lawful possession and enjoyment of the alleged 12 feet right of way. She has further failed to prove that her predecessors-in-title possessed any transferable right over the same, that the said pathway had acquired the character of a public road, or that she had been in settled possession and user of the same as on the date of filing of the suit.

83. Accordingly, *Issue No.(i) is answered partly in favour of the plaintiff by holding that the plaintiff has established possession over the extent of 0.04-2/16 acres together with the building thereon, but has failed to establish lawful possession and enjoyment of the alleged 12 feet right of way.*

84. Consequently, *Issue No.(ii) is answered against the plaintiff by holding that the plaintiff is not entitled to the relief of permanent injunction in respect of the alleged 12 feet right of way as prayed for in the suit. This Court further holds that the suit, insofar as it relates to the disputed 12 feet right of way, is not maintainable without seeking the relief of declaration of the alleged right, and that the defective description of the suit property also disentitles the plaintiff from obtaining an effective decree in the present form of the suit.*

**Discussion on Issue No.3:**

85. Issue No.(iii) is that, What other relief is the plaintiff entitled for? In view of the findings on Issue Nos.(i) and (ii), this Court has held that the plaintiff is not entitled to the relief of permanent injunction as prayed for. Accordingly, the plaintiff is not entitled to any other relief in the present suit. ***Hence, Issue No.(iii) is answered against the plaintiff.***

86. Considering the facts and circumstances of the case, the parties are directed to bear their own costs.

RESULT:

87. ***In the result, this suit is dismissed. The parties are directed to bear their own costs.***

This judgment is dictated to the steno typist, typed by her in computer, corrected and pronounced by me in open court, on this 17th day of June 2026.

**DISTRICT MUNSIF,
UDHAGAMANDALAM**

List of witnesses and exhibits:**Plaintiff's side witnesses examined:**

1. B. Deguramma - Pw-1 (The Plaintiff)

**Plaintiff's side exhibits marked:**

Sl. No	Date	Documents	Nature of Documents	Exhibits
1.	18.02.2011	Sale deed	Certified Registration Copy	Ex. A-1
2.	04.12.2014	Settlement Deed	Certified Registration Copy	Ex. A-2
3.	23.04.2015	Proceedings to Zonal Deputy Tahsildar, Udhagamandalam.	Original	Ex. A-3
4.	20.04.2015	Property Tax Receipt	Original	Ex. A-4
5.	27.04.2015	Chitta	True Copy	Ex. A-5
6.	10.08.1944	Sale Deed	Certified Registration Copy	Ex. A-6
7.	20.02.1956	Partition Deed	Certified Registration Copy	Ex. A-7
8.	07.10.2016	Documents under the Right to Information Act, (Total 7 Pages)	Original	Ex. A-8
9.	10.11.2025	Encumbrance Certificate	Online Copy	Ex. A-9
10.	12.07.2022	Documents under the Right to Information Act, (Total 3 Pages)	Original	Ex. A-10
11.	28.04.2016	Information and Building plan provided by the Public Information Officer (Total 12 Pages)	Original	Ex. A-11

Defendants' side witnesses examined:

1. Sruthi - **Dw-1** (The 8th Defendant)
2. Depo Chandran @ Chandran - **Dw-2** (The 7th Defendant)

**Defendants' side exhibits marked:**

Sl. No	Date	Documents	Nature of Documents	Exhibits
1.	16.06.1948	Sale Deed	Certified Registration Copy	Ex. B-1
2.	30.04.1981	Release Deed	Online Certified Registration Copy	Ex. B-2
3.	20.02.1956	Patition Deed	Certified Registration Copy	Ex. B-3
4.	02.05.2000	Proceedings of Tahsildar, Udhagamandalam.	True Copy signed by The Tahsildar, Udhagamandalam	Ex. B-4
5.	10.04.2026	TSLR Extract	Online Certified Copy	Ex. B-5

**DISTRICT MUNSIF,
UDHAGAMANDALAM.**



Draft / Fair Judgment:

O.S. No. 82/2015

Dated: **17.06.2026**

**District Munsif Court,
Udhagamandalam**