



IN THE COURT OF THE DISTRICT MUNSIF, MUDUKULATHUR

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Friday, this the 06th day of March 2026

O.S.No.03/2020

CNR No. TNRM09-000006-2020

Palanisamy

....Plaintiff

/VS/

1. Muniyandi

2. Rajalakshmi

3. Rajendhiran

4. District Collector, Ramanathapuram

5. Block Development Officer,
Mudukulathur

6. The Tahsildar,
Mudukulathur

..... Defendants

This suit came on 25.02.2026 before this court for a final hearing in the presence of Thiru.K.Alagarsamy, Learned Counsel for the Plaintiff and Thiru.S.N.Yuvaraj Manikandan, Learned Counsel for the 1 to 3 Defendants, Thiru.P.Muniyasamy, Learned Government Pleader for the 4 to 6 defendants and heard both side arguments and perused the entire records and evidence and having stood over for my consideration till this day, this court delivered the following...



JUDGMENT

Suit for declaring the suit properties as common pathway and for permanent injunction restraining the 1 to 3 defendants not to obstruct and not to make any constructions in the suit properties and for cost.

2) Gist of the plaintiff in brief is as follows:-

The suit property is a common pathway comprised in survey numbers 378/5, 377/12 belonging to the Government. The plaintiff's ancestral house is comprised in survey number 378/8. The 1 to 3 defendants are residing north of the suit properties. The 1 to 3 defendants have encroached the common pathway and made some constructions and are also interfering the plaintiff's usage of the suit pathway. The plaintiff can access his properties in survey number 378/8 and 377/9 only through the suit properties. Hence this suit for declaring the suit properties as common pathway and for permanent injunction restraining the defendants from making any constructions in the suit property.

3. Gist of the Written statement submitted by the 1 to 3 Defendants in brief is as follows:-

The 1 to 3 defendants deny the averments in the plaint. The 1 to 3 defendants have no dispute in respect of the item number 1 of the suit properties. The item number 2 of the suit property along with the properties situated to its north are ancestral properties of the 1 to 3 defendants. The defendants are



initiating necessary steps to procure patta for the item number 2 of the schedule. Since the plaintiff is not in the possession of the suit properties, he can only file a suit for recovery of possession as he himself has stated that the defendants have made constructions in the suit property. Hence prays to dismiss the suit.

4. Gist of the Written statement submitted by the 4 to 6 Defendants in brief is as follows:-

The 4 to 6 defendants deny the averments in the petition. The item number 1 of the suit property is a pathway in the revenue records. The public are using the suit properties as common pathway. The item number 2 of the suit property is mutated as vacant site in the revenue records. The suit is not maintainable as it is not filed in representative capacity. Hence prays to dismiss the suit with costs.

5) Based on the pleadings on both sides following issues were framed on 07.11.2022:-

1. Whether the suit is barred without filing in representative suit capacity?
2. Whether the suit schedule property 1st and 2nd item items are public pathway or not?
3. Whether the plaintiff is entitled to the relief of declaration as prayed for?
4. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?
5. To what other relief the plaintiff is entitled to?



6. Evidence let in:

On the plaintiff's side, the plaintiff examined himself as PW1 and one Mr.Thangasamy was examined as PW2. Through PW1, Ex.A1 to Ex.A7 were marked.

On the defendants side, the 1st defendant examined himself as DW1, one Mr.Arumugam was examined as DW2 and one Mr.Selvaraj was examined as DW3. Through DW2, Ex.E1, through DW3, Ex.E2 and Ex.E3 were marked.

Heard both side arguments and available records perused.

7. Issue No. 1 to 3 :-

7.1 The case of the plaintiff is that the suit properties in survey number 378/5 (Item No.1) and survey number 377/12 are common pathways and belongs to the government. The plaintiff is residing in survey number 378/8 is south of the item number 1 of the suit property. The 1 to 3 defendants reside north of the item number 1. The plaintiff state that the 1 to 3 defendants have encroached the item number 1 and made some constructions, causing hindrance to the plaintiff's usage of item number 1 as a pathway. The 1 to 3 defendants have filed a written statement stating that they have no dispute as to the fact that item number 2 is a common pathway but with respect to item number 1, it is contended that along with the other properties of 1 to 3 defendants north of item number 1 of the suit schedule, the item number 1 is their ancestral property and necessary steps are



being initiated to obtain patta for the same. The 4 to 6 defendants are government officials and they are impleaded as a party as the plaintiff states that the suit properties belong to the government. The 4 to 6 defendants have filed written statement as such.

7.2. Now the defendants take a stand that the suit ought to have been filed in a representative capacity and is liable to be dismissed. But the plaintiff has a specific cause of action against the 1 to 3 defendants stating that they are interfering with his alledged right of way by obstructing the same by means of encroachments. The plaintiff can very well maintain a suit by himself as there is a specific cause of action. In respect of item number 2 there is no dispute as the defendants themselves admit that it is a common pathway and it is mutated as such in the revenue records. On the side of the defendants, VAO was examined as DW3 and he confirms the same. Now the dispute on hand to be decided is whether the item number 1 of the suit property is a common pathway or not.

7.3. The plaintiff himself admits that the suit property (Item No.1) is classified as vacant site and not as common pathway in revenue records. But contents the item number 1 has been used as a common pathway and it is the only way to access his property in survey number 378/8. The plaintiff was examined as PW1 and in his cross examination dated 06.04.2023 para No.2, it is stated that there is a pathway east to survey No.378/8 (plaintiff's property) which runs in the



north south direction and it can be used to reach the pathway in 377/12 (Item No.2). The FMB of survey number 378/5 (item No.1) is marked as Ex.A1. The plaintiff counsel states that the item number 1 is only a part of survey number 378/5 and it is present as a “T” shape in the Ex.A1. The tail portion measuring an extent of 3.2 meter in the northsouth and 18.6 meter in the eastwest is located south of 1 to 3 defendants property. The larger portion (head) measuring an extent of 2.6 meter in the eastwest and 28.0 meter in the southnorth is the pathway running in the northsouth direction, east of the survey number 378/8 (plaintiff’s property) that connects with 377/12 (Item No.2). It is stated that the suit is filed only for the extent of 3.2 meter in the northsouth and 18.6 meter in the east west as the 1 to 3 defendants are obstructing only such extent. It is stated in the written statement filed by the 1 to 3 defendants that there is an alternative pathway to access the plaintiff’s property in survey number 377/9, 378/8. During the cross examination of PW1, the said alternative pathway is elucidated as the pathway located east of survey number 378/8 (Plaintiff’s property) running south to north connecting with item No.2. The said pathway east to 378/8 is nothing else but the (head) larger portion of survey number 378/5. It can be seen as such in Ex.A1. Since one portion of survey number 378/5 is admitted as being used as a common pathway by the defendants, the smaller portion of 378/5 (item No.1) located south of 1 to 3 defendants’ property cannot be said as their absolute property. The Dw3



(VAO) in his deposition states that the patta was never granted in favour of any private person in respect of the item number 1 (survey No.378/5) and states that even though item number 1 is not a pathway in revenue records, the same has been used as a pathway. The plaintiff has sufficiently discharged his initial onus and the 1 to 3 defendants have not produced any evidence to rebut the same. Hence in the light of the above discussions, these issues are decided in favour of the plaintiff. Hence these issues are answered accordingly.

8. Issue No. 4 :-

The plaintiff seeks relief of permanent injunction against 1 to 3 defendants not to interfere their usage of the suit properties by obstructing or by making any constructions in the suit properties. But since the plaintiff admits in plaint para No.1, that the 1 to 3 defendants have made constructions in the suit property, the relief of permanent injunction as sought against 1 to 3 defendants not to obstruct and not make any constructions in the suit properties cannot be granted. The plaintiff ought to have sought for the relief of mandatory injunction. Hence in the light of the above discussions, this issues is answered against the plaintiff.



9. Issue No.5:-

As per the facts and circumstances of this case, this court comes to the conclusion that the plaintiff is not entitled to any other relief. Hence the issue is answered accordingly.

10. In the result, this suit is partly decreed as follows,

- a. it is hereby declared that the suit properties as a common pathway and
- b. the suit is dismissed in respect of the the relief of permanent injunction against the 1 to 3 defendants not to obstruct and not to make any further constructions in the suit properties
- c. there is no order as to costs.

Directly typed by me in my official laptop, aligned by the Steno Typist, corrected by me and pronounced in the open court, on this 06th day of March 2026.

**District Munsif ,
Mudukulathur.**

Plaintiff side Witness:-

PW1 - Thiru. Palanisamy

PW2 – Thiru. Thangasamy

Plaintiff side Exhibits:-

Ex.A1 ... - FMB for the 1st item of suit property (marked with objection)- True copy



- Ex.A2 ... - Natham Patta for Survey No.378/8- True copy
Ex.A3 ... - House Tax Receipt for Survey No.378/8 for the year of 2018-2019- Original
Ex.A4 ... - House Tax Receipt for Survey No.378/8 for the year of 2019-2020- Original
Ex.A5 ... - House Tax Receipt for Survey No.377/9 for the year of 2018-2019- Original
Ex.A6 ... - EB Bill Receipt for Survey No.377/9 – Online copy
Ex.A7 ... - FMB for the 2nd item of suit property- Xerox copy

Defendants side Witness:-

DW1 - Thiru. Muniyandi

DW2 – Thiru.Arumugam

DW3 - Thiru.Selvaraj

Defendants side Exhibits:- Nil

Witness side Exhibits:-

- Ex.E1 ... - Aadhar Card of DW2 (Compared with original) – Xerox copy
Ex.E2 ... - Adangal for survey No.378/5, 377/12 (Compared with original)- Xerox copy
Ex.E3 ... - FMB for survey No.378/5, 377/12 (Compared with original)- Xerox copy

**District Munsif ,
Mudukulathur.**