

IN THE COURT OF THE DISTRICT MUNSIF, SANKARI

Present: Tmt. R. ELAMATHI, B.A., B.L.,
District Munsif Court, Sankari

Saturday, the 06 day of June, 2026

திருவள்ளூர்வராண்டு 2057, பராபவ வருடம், வைகாசி திங்கள் 23-ம் நாள் சனிக்கிழமை

O.S.No.88/2015

TNSA080001162015

R. Natesan

... Plaintiff

// Versus //

Venkatachalam

... Defendant

This suit came up for final hearing before me on this day in the presence of Thiru. V. Dhanapal appearing for the Plaintiff and of Thiru. R. Vadivelu Advocate appearing for the Defendant and upon hearing both side arguments and upon perusal of entire case records and having stood over for consideration till this day, this Court delivered the following;

JUDGMENT

This suit has been instituted by the plaintiff seeking for granting decree of permanent injunction restraining the defendant, his men, agent and servant in any manner disturbing the plaintiff's peaceful possession and enjoyment of the suit property and seeking for granting decree of permanent injunction restraining the defendant, his men, agent and servant in any manner alienating or encumbering the suit property.

2. THE CRUX OF THE PLAINT IN A NUTSHELL:

2.1) The Plaintiff submits that, the suit properties and other properties were originally belonged to plaintiff and his brother Krishnan ancestrally and then the suit properties and other properties were allotted to the plaintiff by way of oral partition and hence he is the absolute owner of the suit properties and he is in absolute possession and enjoyment of the same, Originally the patta number for the suit properties is 266, which stands in the name of plaintiff. The Plaintiff is paying all taxes and charges to the concern authorities by mentioning the patta number. Further the plaintiff constructed a building also in the suit properties 25 years back. Thus except the plaintiff nobody has got any right, title and enjoyment over the suit properties.

2.2) The Plaintiff submits that, while being so, the defendant started to cause troubles in the Plaintiff's enjoyment of the suit properties for the past 6 months. So, the plaintiff approached the defendants in person and through elders for amicable settlement in the 1st week of November 2014. But the defendant refused and threatened and told that he is the owner of the suit properties, since the patta for the suit properties was transferred in his favour. Then only the plaintiff verified and came to know that with a view to cheat and defraud the plaintiff and to obtain illegal gain and to grab the suit properties, the defendant and his deceased father colluded together and illegally got transferred the patta number the suit properties as 142 from 266 in the name of defendant's father namely Govindan and then after the demise of Govindan the said patta was illegally transferred in the name of defendant regarding the suit properties and other properties without the knowledge of the plaintiff. Actually still the patta number 266 is standing in the name of plaintiff and he is paying taxes by mentioning the patta number and hence the plaintiff bonafidely believed that the

suit properties are in the patta number 266 only. The defendant and his father have no right to got transfer the patta. The transfer of patta is not acted upon and still the plaintiff is in peaceful possession and enjoyment of the suit properties. Hence the above said patta transfer is illegal, invalid and not binds the plaintiff.

2.3) The Plaintiff submits that, while being so, the plaintiff tried to settle the matter amicably through elders, but the defendant evaded for the same by giving false excuses and continued his illegal activities. So the Plaintiff has taken steps to cancel the patta transferred in the name of defendant regarding suit properties. But taking advantage of the above created patta, the defendant on 25.04.2015 along with rowdy elements tried to disturb the Plaintiff's peaceful possession and enjoyment of the suit properties and tried to alienate and encumber the suit properties, for which the defendant is not entitled and that illegal acts have been thwarted by the plaintiff with great efforts. But the defendant openly proclaimed that he will achieve his illegal goals within a week. All earnest efforts taken by the plaintiff to settle the matter amicably were in futile. Therefore it has become necessary for the plaintiff to approach this Court for the relief of Permanent Injunction against the defendant for restraining him and his men and agents from in any manner distrubing the Plaintiff's peaceful possession and enjoyment of the suit properties and from in any manner alienating or encumbering the suit properties and such other relieves. Hence the suit.

3. THE BRIEF AVERMENTS OF WRITTEN STATEMENT:

3.1) The Defendants alleges that, the suit is false, frivolous, vexatious and untenable in law and on facts. The averments contained in the plaint are all fase

except those that are specifically admitted hereunder. This defendant puts the plaintiff to strict proof of the rest of the same.

3.2) The Defendant submits that, the suit property and other properties are ancestral property of one Konagounder, who is no more. He had four sons, they are Perumalgounder, Vengagounder, Seerangagounder and Ramasamygounder. All are no more. The above said Perumalgounder had two sons they are Periyannan and Govindan, both are no more. One Periyasamy and Rajagopal are the sons of Periyannan. This defendant is a son of Govindan. The above said Seerangagounder had two sons they are Konagounder and Kandasamy, both are no more. One Kaveri and Venkatachalam are sons of deceased Konagounder. One Krishnan and the Plaintiff are sons of Ramasamygounder. The defendant herewith submitting a genealogical table for easy reference.

3.3) The Defendant submits that, during life time of above said Vengagounder he had sold his 1/4th share to his brothers Perumalgounder and Seerangagounder under deed dated 04.10.1929 for valid and valuable consideration. The above said Vengagounder migrated to Sri Lanka. The family members of Perumalgounder and Seerangagounder were enjoying the share of Vengagounder. Earlier properties situate in A. Thalaiyur Village has given new survey numbers by the Revenue department.

3.4) The Defendant submits that in Tamil month of Thai 1960 the legal heirs of Konagounder had divided their family properties orally. From the oral partition all the sharers are enjoying their respective shares separately without any hindrance. On the strength of separate enjoyment, sub-division numbers and separate patta also issued by the Revenue Department. There are 44

sub-division numbers were given by the Revenue Department in S.No.78/5. There are several separate patta also given to the sharers. Patta No. 142 given to the father of this defendant. Earlier patta No. 142 contains S.Nos. 78/5C, 5F, 5L, 5S, 5A15 while patta No. 266 given in the name of plaintiff. Actually the land in suit survey number 78/5X allotted to this defendant's father in the oral partition referred supra. But S.No. 78/5X included by the Revenue Department in Patta No. 266 belonged to the plaintiff wrongly. This defendant's father had constructed a house in the suit property in the year 1989. This defendant and his family members obtained loan to construct the house in the suit property. The southern portion of the building is terraced and the northern portion of the building roof covered by asbestos sheet. The defendant and his family members residing in Eastern portion and they are running a grocery shop in the western portion. This defendant has obtained two service connections to his building situate in the suit property. S.C.No. 659 was given to the domestic purpose and S.C.No. 2008 was given to the shop. This defendant is paying house tax and electric consumption charges to his building regularly. This defendant also dug a bore well in North-eastern portion of suit property and he and his family members are enjoying the same. But the Plaintiff did not mentioned the bore well in description of property. This defendant has obtained telephone connection to the house situate in the suit property.

3.5) The Defendants submits that in the year 1992, the father of defendant also given necessary petition to the Tahsildar, Sankari to give patta in his name to the suit property, since he is enjoying the same from the oral partition referred supra. On the basis of petition given by the father of this defendant the revenue officials inspected the suit property and they found the suit property enjoying by the family members of this defendant but the survey number wrongly included

in the patta No. 266 belongs to the plaintiff. On 18.03.1992 the plaintiff also given statement before the officials of revenue department in respect of enjoyment of the suit property by the father of this defendant. On that basis S.No.78/5X included in patta No. 142 belongs to the father of defendant by the order of Regional Deputy Tahsildar Sankari in T.R. 6-2/489/91-92/A2 dated 18.03.1992. The above said all the facts are available in the order passed by Regional Deputy Tahsildar, Sankari. The order was passed by the revenue department with the consent of the plaintiff. The plaintiff is very well know the above said all the facts.

3.6) The Defendant submits that the plaintiff did not enjoy the suit property at any point of time. He has no right in the suit property. Actually the plaintiff has constructed his house in S.No.78/5P not in the suit property. The suit property is situate east of S.No. 78/5P. S.No. 78/6C is situate on the middle of S.No. 78/5P and the suit property. S.No. 78/6C belongs to family members of Ponnusamy, they are running rice mill in it. On the East of suit property S.No. 78/5Y is situate the same is belongs to plaintiff's brother Krishnan, he has constructed a terraced house in it. On the north of suit property S.No. 78/5W is situate the same is belongs to family members of Konagounder. On the south of the suit property common street is situate. The defendant herewith submitting a rough plan for easy reference.

3.7) The Defendant submits that family members of Ponnusamy has executed a Partition Deed in the year 2010, at that time there were boundary dispute raised among the family members of Ponnusamy, the plaintiff and the defendant. Hence the plaintiff and the defendant collected necessary documents belongs to the family members of Ponnusamy to file suit against them. The Plaintiff also

obtained registration copy of Partition Deed dated 31.12.2010 executed by the family members of Ponnusamy and encumbrance certificate for S.No. 78/6C. Later the dispute was amicably settled in the panchayat and no suit was filed against the family members of Ponnusamy. In above two documents four boundaries stated for S.No. 78/6C and the eastern boundary shown as the suit property belongs to defendant. Hence it is clearly reveals that the plaintiff has filed the suit with false averments to grab the suit property. The Plaintiff is very well know about the transfer of the suit property to the patta No. 142 belongs to the father of this defendant. But he falsely state that recently he came to know the facts.

3.8) The Defendant submits that the plaint averments are very vague regarding the building standing in the suit property. There is no proper detail regarding type of house, door number and service connection number. There is no recital that when the plaintiff constructed the building in the suit property. No document submitted by the plaintiff to prove his possession enjoyment of the suit property.

3.9) The Defendant submits that the plaintiff has created a Settlement Deed dated 26.11.2014 in his favour with the help of his mother in respect of properties belongs to this defendant and other legal heirs of above said Konagounder. After execution of Settlement Deed the plaintiff tried to evict the defendant and others from their property. Among them one Kaveri and his wife Mani had filed O.S.No. 30/2015 on the file of District Munsif of Sankari. Due to enmity the plaintiff has filed this vexatious suit against the defendant.

3.10) The Defendant submit that the suit property belongs to the defendant, further the defendant denied the title of the plaintiff over the suit property, under these circumstance without prayer of declaration the suit is not maintainable. Further the suit survey number transferred to patta No. 142 by the revenue department in the year 1992. The Plaintiff also given his statement on 18.03.1992. After lapse of 23 years the plaintiff cannot question the order of revenue department. If really the facts are true the plaintiff should have filed necessary appeal before the revenue forum.

3.11) The Defendant submits that the plaintiff cannot seeking the relief of Permanent Injunction against the true owner. There is no cause of action. The Plaintiff did not approach this Court with clean hands and he suppressed the real facts. On the score itself the suit is not maintainable. There is no merit in the suit. Hence the defendant prays that this Court to dismiss the suit with costs and thus render justice.

4) Having considered the rival submissions and pleadings of both parties, this court has framed the following considerable issues:

ISSUES:

- i) Whether the plaintiff is entitled to the relief of permanent injunction against the defendant from disturbing the plaintiff's peaceful possession and enjoyment of the suit property?
- ii) Whether the plaintiff is entitled to the relief of permanent injunction against the defendant from in any manner alienating or encumbering the suit property?
- iii) Whether the suit is maintainable without the relief of declaration?
- iv) To what other relief, if any, is the plaintiff entitled?

5) In order to substantiate plaintiff's claim, the plaintiff himself examined as, PW1 on proof affidavit EX.A.1 to EX.A.14 were marked through PW1. EX.A.15 is marked during DW1 cross examination. EX.A.1 is the kist receipt dated 05.10.1987 in the name of plaintiff. EX.A2 is the kist receipt dated 23.03.1990 in the name of plaintiff. EX.A3 is the kist receipt dated 23.03.1990 in the name of plaintiff. EX.A4 is the kist receipt dated 27.03.1992 in the name of plaintiff. EX.A5 is the kist receipt dated 23.01.1993 in the name of plaintiff. EX.A6 is the kist receipt dated 13.03.1998 in the name of plaintiff. EX.A7 is the kist receipt dated 30.12.1994 in the name of plaintiff. EX.A.8 is the kist receipt dated 06.02.1996 in the name of plaintiff. EX.A9 is the kist receipt dated 20.02.1997 in the name of plaintiff. EX.A10 is the kist receipt dated 12.02.2000 in the name of plaintiff. EX.A11 is the kist receipt dated 09.03.2002 in the name of plaintiff. EX.A12 is the kist receipt dated 19.01.2015 in the name of plaintiff. EX.A13 is the patta no.142 dated 10.11.2014 in the name of defendant. EX.A14 is the information given by Deputy Tahsildhar under Right to Information Act. EX.A15 is the mortgage deed dated 11.07.1989 executed by defendant infavour of Sankari Taluk Co-Operative Society.

On the side of Defendant, the defendant himself examined as DW1. EX.B.1 to EX.B.16 were marked through DW1. EX.B.1 is the sale deed dated 04.10.1929. EX.B.2 is the partition deed dated 31.12.2010. EX.B.3 is the settlement deed dated 26.11.2014. EX.B.4 is the house tax receipts (12 Nos) in the name of defendant father. EX.B.5 is the electricity receipts of EB.No. 659 (6 Nos) in the name of defendant father. EX.B.6 is the electricity receipts of EB.No. 2008 (6 nos) in the name of defendant father. EX.B7 is the patta nos. 142, 607, 608, 822 and 930. EX.B8 is the proceedings of Zonal Deputy Tahsildar dated 18.03.1992. EX.B.9 is the patta nos. 65, 737, 881, 141, 266 and 354. EX.B.10 is the memo given by RDO, Sankagiri dated 12.02.2021. EX.B11

is the information obtained through Right to Information Act dated 23.03.2015. EX.B12 is the information obtained through Right to Information Act dated 08.04.2015. EX.B.13 is the information obtained through Right to Information Act dated 25.06.2015. EX.B14 is the sales tax receipts (7 nos.) in the name of defendant's father. EX.B15 is the sale tax receipt dated 31.03.1990 in the name of defendant's father. EX.B.16 is the proceedings of Zonal Deputy Tahsildar, Sankagiri dated 12.12.2014. One Mr. Murugan was examined as DW2. No documents were marked through him. One Mr. Krishnan was examined as DW3. No documents were marked through him.

6. DISCUSSION, REASONING AND FINDINGS FOR EACH ISSUES

Issue No. 3 is taken up first for consideration, as it raises a threshold question of maintainability which, if decided against the plaintiff, goes to the root of the suit. The defendant contends that the present suit has been filed by the plaintiff without seeking any relief of declaration of title and seeks only reliefs of permanent injunction which is not maintainable in law where the title to the suit property is fundamentally and seriously in dispute. Now the burden purely rests on the plaintiff's shoulders to prove his case that he is entitled for the relief of permanent injunction without seeking the relief of declaration of title.

ISSUE NO.3

Whether the suit is maintainable without the prayer of declaration?

The legal principle applicable to this issue is well settled by the Hon'ble Supreme Court in Anathula Sudhakar vs. P. Buchi Reddy (Dead) by LRs. [(2008) 4 SCC 594]. In this landmark judgment, the Hon'ble Supreme Court comprehensively laid down the law on the maintainability of suits for

Permanent Injunction and formulated the following principles: (i) As a general rule, a suit for permanent injunction can be maintained without a prayer for declaration where the plaintiff's title is undisputed and the only controversy is interference with his possession. (ii) However, where the defendant disputes the plaintiff's title and raises a genuine controversy about the plaintiff's right to the property, the plaintiff cannot restrict himself to a prayer for injunction alone he must seek a declaration of his title in order to remove the cloud cast by the defendant's competing claim. (iii) The court granting a decree of permanent injunction must have before it a judicial determination of the plaintiff's right to possess and in the absence of such a determination through a declaration, an injunction granted in a legal vacuum is without foundation. Applying these principles to the facts of the present case on hand, this Court must examine whether the title to the suit property is genuinely in dispute, or whether the plaintiff's title is clear and undisputed that only possession needs protection. A careful examination of the evidence and the documents on record leaves no room for doubt that the dispute in this case is fundamentally one of title and not merely one of possession. This Court consider the following undisputed facts are, First, the suit survey number S.No.78/5X stands in the defendant's Patta No.142 as on 10.11.2014 is a fact established by Ex.A13, which is the plaintiff's own document. Second, the defendant holds patta no.142 which is Ex.B7 dated 02.12.2010 specifically showing S.No.78/5X in his name. Third, the Zonal Deputy Tahsildar passed an order in his administrative proceedings டி.ஆர். 6-2/ 489 / 91-92 / 2 which is Ex.B.8 on 18.03.1992 directing that S.No. 78/5X to be added in defendant's Patta No. 142. Fourth, the RDO in Ex.B10 found that the defendant is in physical possession of S.No.78/5X with two constructed houses. Further PW1 himself admitted in his cross-examination dated 27.04.2023 that S.No.78/5X stands in the defendant's patta and deposed

as “தற்போது பிரச்சனைக்கான வழக்கு சர்வே எண் பட்டா எண் 266ல் இருந்து நீக்கப்பட்டுள்ளது என்றால், சரிதான். சர்வே எண் 78/5X ஆனது பிரதிவாதிகளுக்குரிய பட்டா எண் 142 ல் சேர்க்கப்பட்டுள்ளது என்று சொன்னால், சரிதான். பட்டா எண் 142 ஆனது எந்தெந்த நிலங்களுக்கு சம்பந்தப்பட்டது என்ற விபரம் எனக்கு தெரியாது”.

In this situation, where the defendant holds a current, subsisting patta (Ex.B.7 and Ex.A13) and an official revenue order (Ex.B8) specifically in respect of S.No.78/5X, and whereas the plaintiff stoutly opposed that patta issued in the name of defendant in respect of suit S.No.78/5X as illegal, this court is of view as this dispute is one of title. The plaintiff in his cross examination deposed as,

“ சர்வே எண் 78/5X ல் தான் பிரதிவாதி வீடு கட்டியுள்ளார் என்ற விபரம் 25.04.2015 ம் தேதியில்தான் ஆவணத்தின் அடிப்படையில் எனக்கு தெரிய வந்தது. பிரதிவாதி 1989 ம் ஆண்டில் வீடு கட்டும்போது ஆட்சேபனை செய்தேனா என்றால் அப்போது எனது நிலம் என்று எனக்கு தெரியவில்லை. பிரதிவாதியை வழக்கு சொத்திலிருந்து வெளியேற்றுவதற்கும், அவர் கட்டியுள்ள வீட்டை அகற்றுவதற்கும் இந்த வழக்கில் பரிகாரம் கோரியுள்ளேனா என்றால், கோரியுள்ளேன்”.

On perusal of records it is seen that, the plaintiff in his pleadings pleads that he has constructed a building in the suit property 25 years back. This suit has been instituted on 30th April, 2015, but in the above cross, he deposed as he came to know about the construction of house by the defendant in the suit property only on 25.04.2015, which is less than a week prior to the institution of the suit. In such situation, the plaintiff ought have seek for the relief of declaration as he is the owner of the suit property and recovery of possession. Eventhough the plaintiff had knowledge about construction of house by the defendant in the suit property which allegedly in possession of the plaintiff, he wilfully and consciously filed the suit without seeking any relief of declaration. Further the plaintiff's grievance is that the defendant wrongfully obtained a patta through a fraudulent or erroneous administrative order. The defendant averred that he legitimately obtained the patta through his ancestral right and the 1992 proceedings. On the otherhand

the plaintiff has sought to rely upon Ex.A14, the reply obtained through RTI in the year 2019 and argued that his revenue entry in Patta No. 266 continues intact and therefore his possessory right flows from an existing, uncanceled revenue entry, making a declaration unnecessary. This argument, while superficially attractive, cannot be accepted for the following reasons. The co-existence of chitta contains plaintiff's name in Patta No. 266 as per Ex.A14 and the defendant's name in Patta No.142 as per Ex.B7 and Ex.A13, both covering S.No.78/5X, is itself evidence of a title dispute and it is not evidence of the plaintiff's clear and undisputed title. The plaintiff's name continuing in one revenue register while the defendant's patta is in another register is precisely a title controversy, since two persons cannot both have valid, independent patta rights over the same survey number. Therefore in respect of two existing patta in the name of both plaintiff and defendant, this court can decide the dispute only by deciding through relief of declaration. Without a relief of declaration, that the defendant's patta is illegal, this Court cannot grant a permanent injunction in favour of the plaintiff over a property that is officially patted in the defendant's name. On perusal of Ex.B3 which is a settlement deed and in that, Patta dated 24.11.2014, is in the name of the defendant and plaintiff's mother Vedakkal as co-pattadarars in patta no.142 in respect of suit S.No. 78/5X but in respect of Ex.B16, proceedings of Zonal Deputy Tahsildar, sankari ordered to add the plaintiff's name as co-pattadarar in several patta numbers containing several survey numbers including suit survey number in patta no.142. Further on perusal of Ex.B10, the plaintiff has applied for patta transfer in respect of S.No. 78/5X which has to be added in Patta no.266 and plaintiff's brother krishnan applied for patta transfer in respect of S.No.78/5U which has to be added in Patta no.118. RDO in his order dated 12.02.2021 mentioned as, after field inspection it is found that the defendant is in physical possession with two constructed

houses, but the revenue entires are in plaintiff's name and the overall dispute is unresolvable at the revenue level. The RDO specifically directed both parties to approach the civil court for adjudication of their respective rights. This court is of considered opinion as, when the RDO himself in his order stated that the matter requires civil court adjudication and of rights and when the rights in question involves competing patta claims on both sides, a challenged 1992 revenue order, a disputed oral partition, Ex.B10 proceedings of RDO, Sankari dated 12.02.2021, Ex.B.16 proceeding of Zonal Deputy Tahsildar, sankari dated 12.12.2014 it is evident that a comprehensive title adjudication through a suit for declaration in respect of establishing plaintiff's right and title over the suit property is the appropriate remedy, not a bare injunction suit that leaves the title question entirely unresolved.

On a cumulative analysis, **ISSUE NO.3 is answered against the plaintiff.** The suit is not maintainable without a prayer for declaration of title according to facts and circumstances of this case.

ISSUES Nos. 1 AND 2

For better arrival of decision in respect of ISSUES 1 AND 2, both issues were analysed and discussed together.

Issue No. 1 and 2 requires this Court to determine whether the plaintiff has established his actual, physical and peaceful possession of the suit property S.No. 78/5X as on the date of the suit and whether the defendant is trying to encumbering the suit property by alienating the same. Although this Court has held on Issue No. 3 that the suit is not maintainable, Issue No. 1 and 2 are examined on merits for the completeness of the record. For these two issues also, the burden lies on the Plaintiff to prove his possession and entitlement of permanent injunction.

ISSUE No. 1 : Whether the plaintiff is entitled to the relief of Permanent Injunction against the defendant from disturbing the plaintiff's peaceful possession and enjoyment of the suit property?

ISSUE No. 2 : Whether the plaintiff is entitled to the relief of Permanent Injunction against the defendant from in any manner alienating or encumbering the suit property?

The law governing suits for Permanent Injunction requires the plaintiff to prove: (i) that he was in actual, physical and peaceful possession of the suit property as on the date of the suit; and (ii) that the defendant has been disturbing, threatening or interfering with such possession. The burden of proving both limbs lies entirely and squarely on the plaintiff. In order to prove his possession the plaintiff has produced Ex.A.1 to Ex.A12 are kist receipts in respect of patta no.266 in the name of plaintiff. Ex.A1 is the kist receipt dated 05.10.1987, which specifically mentioned S.No.78/5X in the plaintiff's name along with Patta No.266. This document is undoubtedly the plaintiff's strongest piece of evidence to prove his possession. It establishes that as on 1987, twenty-eight years before this suit was filed, S.No.78/5X was part of Patta No. 266 which is in the plaintiff's name. The kist receipts Ex.A2 to Ex.A12 mention only Patta No.266 without specifically mentioning S.No.78/5X. However, the critical fact is that the Deputy Tahsildar passed the order in Ex.B.8 on 18.03.1992 directing that S.No. 78/5X be removed from Patta No. 266 which was wrongly added and the said suit survey number has to be added in Patta No.142. On the other hand, the defendant has produced Ex.B2, the Partition deed executed between family members of One Mr. Ponnusamy. On perusal of Ex.B.2 this is an independent, registered document executed between adjacent landowners who have no interest in the outcome of this case. In the property description in Ex.B2,

it is mentioned as “B.பாகம்:- நம்மில் 2 லக்கமிட்ட L.முத்து சர்வ சுதந்திரமாய் அடைந்துக் கொள்ளும் சொத்துக்கள் விவரம்:-

சேலம் மேற்குரிடி, மகுடஞ்சாவடி சப்ரிடி, சங்ககிரி வட்டம், அக்ஹாரதாழையூர் கிராமம், பட்டா எண்.931, ச.நெ.787/6, (எழுபத்தி எட்டில் ஆறுசி), இதில் பு.ஏ.0.17 செண்டு விவசாய நிலத்திற்கு சக்குபந்தி:-

ஒடை புறம்போக்கும்

-- வடக்கு

வட்சுமணம் மகன் செல்வம் நிலத்திற்கும்

-- (கிழக்கு), (தெற்கு),

கோவிந்தன் மகன் வெங்கடாஜலம் நிலத்திற்கும் -- (மேற்கு)”, it clearly shows that the defendant’s land is recognised as the boundary of the adjacent Survey Number 78/6C. This Court admits that, the above description of property mentioned in Ex.B2 alone will not conform the title of the Defendant, but still independent adjacent landowners recognising the defendant's land as a boundary in their own private partition deed is cogent third-party evidence that the defendant was in open and uncontested possession of the suit property, known to and accepted by the neighbourhood and it proves the possession of the defendant. Ex.B3 the settlement deed dated 26.11.2014 executed by the plaintiff's mother Vedakkal conveys this court as against the plaintiff's claim of possession. The plaintiff claims to have been in continuous possession of S.No.78/5X for 25 years prior to the suit. This court is of considered opinion as, if this were true, there would have been no occasion for him to obtain a settlement deed from his mother in respect of the same property in 2014. A person who has been in undisturbed possession for 25 years does not need a settlement deed to establish his claim over the property where he is already occupying and possessing the same. The plaintiff in his pleadings contends that he constructed a building in the suit survey number.78/5X and he is in possession of the suit property 25 years ago but on perusal of EX.B.12 dated 08.04.2015

information obtained from Right to Information Act, it is seen that , the plaintiff has constructed a house under “Kalaingar veedu vazhangum thittam 2010-2011”, in patta no.266 and its S.no. 78/5P. From EX.B.12 it is evident that the plaintiff has constructed a house in S.no.78/5P and not in Suit survey no.78/5X. Further EX.B.10 dated 12.02.2021 clearly stated that “ இதன் தொடர்ச்சியாக தாவாப் புலங்களான 78/5X, 78/5U ஆகியவற்றை வட்டாச்சியருடன் கூட்டாக புலத்தணிக்கை செய்யப்பட்டது. புலத்தணிக்கையில் 78/5X-ல் எதிர்மனுதாரரான கோவிந்தன் மகன் வெங்கடாசலம் என்பவர் இரண்டு தார்க்க வீடுகள் கட்டி குடியிருந்து வருகிறார்.” further it is mentioned as, “புல எண். 78/5X , பட்டா எண்.266 ல் ரா.நடேசன் என்பவர் பெயரில் நில உடைமை மேம்பாட்டுத்திட்டத்தில் பதிவாகியுள்ளது”. Furthermore mentioned as "புல எண்.78/5X – ரா.நடேசன் என்பவர் பெயர் கணக்குகளில் பதிவாகியிருந்தாலும். புலத்தில் வெங்கடாசலம் இரண்டு தார்க்க வீடுகள் கட்டி அனுபவம் செய்து வருகிறார்”. On careful consideration of both EX.B.12 and EX.B.10 it clearly shows that, plaintiff is not in possession of the suit survey no.78/5X, and defendant is in possession over the suit property in S.No. 78/5X till 12.02.2021. Further on perusal of EX.B.8 dated 18.03.1992, the proceedings of Zonal Deputy Tahsildar, Sankari has ordered as “ மேற்படி புலம் மனுதாரருக்கு பூராவும் பாத்தியப்பட்டுள்ளதாலும், பட்டா எண்.266 ன் ஆஜர் பட்டாதாரர் நடேசன் மனுதாரரின் கூற்றை உறுதிப்படுத்துவதாலும் பட்டா எண்.266 லிருந்து புல எண்.78/5 எக்ஸ் புலத்தைப் பிரித்து மனுதாரர் திரு பெருமாள் மகன் கோவிந்தனின் தனிப்பட்டா எண்.142 ல் தாக்கல் செய்ய உத்தரவிடப்பட்டுள்ளது.” But PW1 in his cross deposed as, “பட்டா எண்களில் உள்ள சர்வே எண்களை மாற்றிய விபரம் எனக்கு 2014 ம் ஆண்டில்தான் தெரிய வந்தது. அதுசம்பந்தமாக என்னை 1992ம் ஆண்டு விசாரித்தார்கள் என்று சொன்னால், சரியல்ல. என்னை விசாரித்தார்கள் என்றாலும், ஆஜர் பட்டாதாரர்கள் என்ற முறையில் 18.03.1992 ல் நான் வாக்குமூலம் கொடுத்துள்ளேன் என்றாலும், சரியல்ல. என்னுடைய வாக்குமூலத்தின் அடிப்படையில் TR-6-2/489/91-92 ன் படியான செயல்முறைகளின்படி சங்ககிரி மண்டல துணை வட்டாட்சியர் எண்-1 அவர்கள் 18.03.1992 ல் உத்தவு பிறப்பித்துள்ளார் என்றால், அந்த

உத்தரவு பொய்யான உத்தரவாகும்”. This court is of view as, this order was passed after physical inspection of the suit property by revenue officials and after recording the plaintiff's own statement on 18.03.1992 but plaintiff is totally denying the enquiry made by the revenue officials before passing the order dated 18.03.1992 which is total contradiction to documentary evidence adduced in EX.B.8. Further in order to support the fact, that plaintiff is not in possession of the suit survey number, it is pertinent to look into the PW1 cross examination, he deposed as “வழக்கு சொத்து விபரத்தில் இதிலுள்ள கட்டிடமும் சகல இணைப்புகளும் என்று குறிப்பிட்டுள்ளேன் என்றால், சரிதான். இதில் கட்டிடம் என்று குறிப்பிட்டுள்ளது தார்க் வீட்டை குறிக்கும். அந்த வீடு கிழக்கு மற்றும் தெற்கு நுழைவு வாயிலை கொண்டதாகும் அதனுடைய கதவிலக்க எண் ஞாபகமில்லை. தற்போது மேற்படி வீட்டில் நான் குடியில்லை. யார் குடியிருக்கிறார்கள் என்று எனக்கு தெரியாது. நான் அங்கு செல்வதில்லை. நான் அந்த வீட்டை கட்டவில்லை. நான் அந்த வீட்டை கட்டும்போது நான் கேட்டதற்கு பிரதிவாதி என்னுடைய இடத்தில் வீடு கட்டவில்லை என்றும், சர்வே எண் 78/5F ல்தான் வீடு கட்டுவதாக கூறினார்”. Again this court is of view as, the plaintiff claims that, he is in the suit property for more than 25 years ago, but in his cross, he is unable to tell the door number, electricity connection number of the suit property. He further himself admitted that, he did not constructed the house in the suit survey no.78/5X, he is not in possession of the suit property, further he admitted that he is unaware of the fact that who is presently residing in the suit survey number. Furthermore PW1 in his cross deposed as, “வழக்குரையில் 3வது பத்தியில் வழக்கு சொத்தில் 25 ஆண்டுகளுக்கு முன்பாக கட்டிடம் கட்டியுள்ளதாக கூறியுள்ளேனா என்றால், கூறியிருக்கலாம், ஞாபகமில்லை. கட்டிடம் கட்டியதற்கான ஆதாரம் எதுவும் இந்த நீதிமன்றத்தில் தாக்கல் செய்யவில்லை. கட்டிடத்தில் நான்தான் அனுபவத்தில் உள்ளேன் என்பதற்கான ஆவணங்கள் தாக்கல் செய்துள்ளேனா என்று தெரியவில்லை. சர்வே எண் 78/5X ல் ஒரு கட்டிடம் உள்ளதா என்றால், உள்ளதா என்று எனக்கு தெரியவில்லை”. This complete inability of PW1 to describe the building that he

claims to have constructed and been in possession for 25 years is a telling circumstance. A person who has truly constructed and lived in a building for 25 years would be expected to know its door number, its construction type, and its utility connection numbers intimately. Further PW1 deposed as, “ சர்வே எண் 78/5X ல் உள்ள வீட்டில் யாரெல்லாம் குடியிருக்கிறார் என்ற விபரம் எனக்கு தெரியாது. சர்வே எண் 78/5X ல் தென்புறமாக தாரசு வீடும், வடபுறமாக அட்டை போட்ட வீடும் உள்ளது என்றால், அதுபற்றி எனக்கு தெரியாது” “பிரதிவாதி சர்வே எண் 78/5X ல் உள்ள வீட்டில் அனுபவத்தில் இருந்து வருகிறார்கள் என்பதை மறுக்கிறேனா என்றால், அதுபற்றி எனக்கு தெரியாது”. PW1's vagueness and bare denial on all these particulars is wholly inconsistent with any claim of actual physical possession of the building on S.No. 78/5X. Further it is to be noted that, PW1 himself admitted that, “ சர்வே எண் 78/5X மேற்குபுறமாக சர்வே எண் 78/6C உள்ளது என்றால், சரிதான். அது நாராயணன் மற்றும் 5 நபர்களுக்கு சொந்தமானது ஆகும். அதில் ரைஸ் மில் உள்ளது. சர்வே எண் 78/6C அடுத்தாற்போல் உள்ள சர்வே எண் 78/5P ல் உள்ள நிலம் எனக்கு சொந்தமானது, அதில் நான் வீடு கட்டி குடியிருந்து வருகிறேன்”. Based upon PW1 deposition, he himself admitted that, he is in possession of S.NO.78/5P and in order to substantiate the same EX.B.11 produced by the defendant to prove that plaintiff is not in possession of suit survey number, further DW1 in his cross deposed as, “பி.வா.சா.ஆ.11 ஆவணப்படி என்ன தகவல் கோரப்பட்டுள்ளது என்று சொன்னால், கலைஞர் வீடு வசதி திட்டத்தின் கீழான பயனாளியான வாதியின் பெயர் விபரத்தை கோரினோம். பி.வா.சா.ஆ.11 ஆவணப்படியான சொத்து விபரம் சர்வே எண்.78/5P க்கு சம்பந்தப்பட்டதாகும். வழக்கு சொத்திற்கு சம்பந்தப்பட்டது அல்ல என்றால் சரிதான். பி.வா.சா.11 ஆவணத்திற்கும் வழக்கிற்கும் என்ன சம்பந்தம் என்றால் அவருக்கு சர்வே எண்.78/5X க்கு சம்பந்தப்பட்டது என்று கூறியுள்ளார், அவர் அளித்த பட்டாவில் தாவா சொத்தான சர்வே எண்.78/5X இடம் பெறவில்லை”. On perusal of records it is seen that survey number.78/5 is sub divided into multiple sub division in respect of Patta nos.266 and 142. The plaintiff has produced Ex.A2 to Ex.A12 kist receipts in his name in respect of Patta no.266, but it is does not

conclusively establishes that, he paid kist for suit survey number. 78/5X in respect of patta no. 266. But as discussed earlier, Ex.A13, Ex.B.7, Ex.B8 contains S.No. 78/5X in Patta No.142 which is in defendant's name. Further more the plaintiff in his cross examination stated that “அந்த பாகப்பிரிவினை ஆவணத்தில் சர்வே எண்.78/5ல் எனக்கு 1 ஏக்கர் 26 சென்ட் நிலமும் என்னுடைய சகோதரர் கிருஷ்ணனுக்கு 1 ஏக்கர் 26 சென்ட் நிலமும் ஒதுக்கப்பட்டுள்ளது மற்ற சகோதர சகோதரிகளுக்கு நிலங்கள் ஒதுக்கப்படவில்லை பணமாக கொடுத்துவிட்டோம். நான் கூறும் பாகப்பிரிவினை ஆவணத்தில் எனக்கு ஒதுக்கப்பட்ட நிலத்திற்கு செக்குபந்திகள் குறிப்பிடப்படவில்லை. அதேபோல் எனது சகோதரர் கிருஷ்ணனுக்கு ஒதுக்கப்பட்ட நிலத்திற்கு செக்குபந்திகள் குறிப்பிடப்படவில்லை”, from this statement it is evident that, according to partition deed executed in the year 1982, 1.26 acre of land was allotted to the plaintiff and his brother krishnan separately and in total they had 2.52 acre of land in S.No.78/5. As already discussed above, survey number.78/5 is sub divided into multiple sub division. The plaintiff has not specifically deposed, that 2.52 cents of land belongs to S.No78/5X. The plaintiff furthermore alleges that, the defendant mortgaged the property in respect of Survey Number.78/5F, obtained loan and constructed house in suit survey number. 78/5X. On perusal of Ex.A15 it is crucially important fact about this document is that it is specifically and expressly in respect of Survey Number 78/5F for an extent of 3½ cents of land and not in respect of the suit survey number S.No.78/5X. It is admitted that defendant obtained mortgaged loan in respect of S.No.78/5F not in respect of S.No.78/5X. Apart from the evidences adduced by the defendant, deposition of the defendant, the key factor to be decided is whether the plaintiff has proved his case through sufficient oral and documentary evidences in order to substantiate his claim. On the totality of the evidence placed before this Court, discussions made above, the plaintiff has not established his actual, physical and peaceful possession of the building in

S.No. 78/5X as on the date of the suit. This court is of considered opinion as, preponderance of evidence and in particular of the official RDO's finding in Ex.B.10 establishes that it is the defendant who has been in actual physical possession of the suit property. The plaintiff's evidence establishes at best a revenue record interest but it does not establish actual physical possession. Since proof of actual possession is the very foundation of a suit for permanent injunction, and since the plaintiff has failed to establish it. In respect of granting relief of injunction restraining alienation or encumbrance of property can be granted only where the plaintiff has established: (a) a legal right or interest in the property that makes the defendant's contemplated alienation or encumbrance prejudicial to the plaintiff; and (b) an imminent or actual threat of such alienation or encumbrance by the defendant. Such a relief is essentially a protective measure to preserve the property pending adjudication of the plaintiff's rights. It presupposes that the plaintiff has some legally cognisable interest in the property which is worthy of protection. But the plaintiff has not produced any evidence to show that the defendant has actually threatened to alienate or encumber the suit property or that any specific transaction is imminent. A permanent injunction restraining alienation without any evidence of a threatened or imminent alienation, and without a prior declaration that the plaintiff has a superior right in the property, cannot be granted. Moreover, this Court has held on Issue No. 3 that the suit is not maintainable in the absence of a declaration prayer. Without a declaration establishing the plaintiff's superior title over the suit property and declaring the defendant's patta to be void, the plaintiff has no legally established interest in S.No.78/5X that could be protected by an injunction restraining alienation. The grant of such an injunction in the absence of a declaration would amount to protecting a claimed right that has not been judicially established, which is not permissible in law.

Based upon the cumulative discussions made above, **Issue No.1 is answered against the plaintiff.** Since the plaintiff has failed to prove actual,

physical possession of S.No. 78/5X as on the date of the suit. He is not entitled to the relief of Permanent Injunction restraining the defendant from disturbing his possession.

Further **Issue No. 2 is answered against the plaintiff.** The plaintiff is not entitled to the relief of Permanent Injunction restraining the defendant from alienating or encumbering the suit property.

ISSUE NO. 4

In view of the findings rendered on Issue Nos. 1, 2 and 3, the determination of Issue No. 4 follows as a necessary and inevitable consequence. This Court has held on Issue No. 3 that the suit is not maintainable without a prayer for declaration of title in the facts and circumstances of this case. This Court has further held on Issue No. 1 that the plaintiff has failed to prove actual, physical possession of the suit property as on the date of the suit. This Court has additionally held on Issue No. 2 that the plaintiff is not entitled to the relief of permanent injunction restraining the defendant from alienating or encumbering the suit property, which stands both in the name of plaintiff and defendant's patta, in the absence of a prior declaration. Since all three specific issues have been answered against the plaintiff, it follows that the plaintiff is not entitled to any of the reliefs sought in the present suit. Therefore, **Issue No. 4 is answered against the plaintiff.** The plaintiff is not entitled to any other relief in the present suit.

7) In the result, this suit is dismissed. No cost.

This judgment is directly dictated to the typist, typed by her, corrected by me and pronounced in the open court in the 6th June, 2026.

**District Munsif,
Sankari.**

Plaintiff side Witness:-

PW.1 - Thiru. Natesan – Plaintiff (Proof Affidavit filed)

Plaintiff Side Exhibits :-

Ex.A1	05.10.1987	Certificate issued by concern Village Administrative Officer	Original
Ex.A2	23.03.1990	Kist Receipt in the name of Plaintiff	Original
Ex.A3	23.03.1990	Kist Receipt in the name of Plaintiff	Original
Ex.A4	27.03.1992	Kist Receipt in the name of Plaintiff	Original
Ex.A5	23.01.1993	Kist Receipt in the name of Plaintiff	Original
Ex.A6	13.03.1993	Kist Receipt in the name of Plaintiff	Original
Ex.A7	30.12.1994	Kist Receipt in the name of Plaintiff	Original
Ex.A8	06.02.1996	Kist Receipt in the name of Plaintiff	Original
Ex.A9	20.02.1997	Kist Receipt in the name of Plaintiff	Original
Ex.A10	12.02.2000	Kist Receipt in the name of Plaintiff	Original
Ex.A11	09.03.2002	Kist Receipt in the name of Plaintiff	Original
Ex.A12	19.01.2015	Kist Receipt in the name of Plaintiff	Original
Ex.A13	10.11.2014	Patta in the name of defendant (No.142)	Original
Ex.A14	10.10.2019	Information given by RTI along with Chitta	Original
Ex.A15	11.07.1989	Morgage Deed	Reg. Copy

Defendants side Witness:-

DW.1 - Thiru. Venkatachalam (Defendant) (Proof Affidavit filed)

DW.2 – Thiru. Murugan (Third Party) (Proof Affidavit filed)

DW.3 - Thiru. Krishnan (Third Party) (Proof Affidavit filed)

Defendants side Exhibits:-

Ex.B1	04.10.1929	Sale Deed	Online Certified Copy
Ex.B2	31.12.2010	Partition Deed	Reg. Copy
Ex.B3	26.11.2014	Gift Settlement Deed	Reg. Copy
Ex.B4	---	House Tax Receipts (12 Nos.)	Originals

Ex.B5	---	Electricity Receipts (6 Nos.)	Originals
Ex.B6	---	EB Receipts (6 Nos.)	Originals
Ex.B7	---	Patta Nos.142, 607, 608, 822, 930 (5 Nos.)	Certified Copy
Ex.B8	18.03.1992	Proceedings of Sankari No.1, Zonal Deputy Tahsildar	Original
Ex.B9	---	Patta (Nos.65,737,881,141,266,354) (6 Nos.)	Online Copies (4 Nos.) and Certified Copies (2 Nos.)
Ex.B10	12.02.2021	Memorandum of Revenue Divisional Officer, Sankari	Served Copy
Ex.B11	23.03.2015	Information obtained under the Right to Information Act	Served Copy
Ex.B12	08.04.2015	Information obtained under the Right to Information Act	Served Copy
Ex.B13	25.06.2015	Information obtained under the Right to Information Act	Served Copy
Ex.B14	---	Commercial Tax receipts in the name of the Plaintiff's father (7 Nos.)	Originals
Ex.B15	31.03.1990	Commercial Tax receipt in the name of the Plaintiff's father	Original
Ex.B16	12.12.2014	The proceedings of Zonal Deputy Tahsildar, Sankari	Served Copy

**District Munsif,
Sankari.**

District Munsif Court, Sankari.
Draft / Fair Judgment
O.S. No. 88/2015
Date: 06.06.2026.
