

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: Thiru. **M.Selvam B.A.B.L.**,
District Munsif, Mettur
Friday, this the 31st day of July 2026

O.S. No. 116 of 2017
(CNR No. TNSA17-000065-2017)

1. Shanmugam Asari (died)*

*2. Krishnaveni ... Plaintiffs

/Versus/

1. The State of Tamil Nadu,

Rep by The District Collector, Salem - 1

2. The Assistant Divisional Engineer,

Highways Department, Mettur Dam - 1

3. The Assistant Engineer,

Highways Department, Mettur Dam - 1

... Defendants

*** (Amendment carried out as per the order passed in IA 05 of 2024 dated: 01.03.2025)**

This suit came up before me for final hearing in the presence of Dr. B. Balamurugan., M.A., M.L., the Learned counsel appearing for the plaintiffs and Mr. S. Harinarayanan., B.A., B.L., the Learned Government Pleader appearing for the defendants 1 to 3. Upon hearing both side submissions and having perused the entire records and having stood over for my consideration till this day, this court delivered the following,

JUDGMENT

Suit for the relief of permanent injunction to restrain the defendants and their officials, agents, men or any other persons on behalf of them from in any way interfering with the peaceful possession and enjoyment of the suit properties and for awarding cost.

1) Brief averments in the plaint is as follows:

1.1. The 1st plaintiff has put up construction of hut in the suit properties about 65 years ago and latter he has renovated it into Mangalore tiled house and now it has been converted in to ACC seated house. The 1st plaintiff is paying all the dues to the local body. The Electricity connection was given to the house by the then TNEB and now the consumption charges are collected by the TANGEDCO. The Mettur Municipality is collecting the Property Tax and Water Consumption Charges from the 1st plaintiff. The 1st plaintiff is residing in it for all these years with his family members.

1.2. Even prior to 1955, the 1st plaintiff has put up construction, occupied the suit properties and his possession and title to the suit properties were perfected and recognized by the Government Departments. One M/s V.S. Enterprises at 14/1-134, V.S. Arcade, Pudusampalli has recently purchased some properties on the Eastern side of the suit properties. As he is moneyed and politically influenced person, he demanded the 1st plaintiff to sell the suit properties to him stating that he wanted the suit properties. As the 1st plaintiff is having no other property of his own for his residence he denied it. Being irritated with this, he has filed caveat against the 1st plaintiff and some other persons of that locality who were also affected by the said person for the same reason during 2013. So, the 1st plaintiff has also filed caveat against him. Latter he kept quite for some time.

1.3. Now he has indulged the 2nd defendant and gave wrong information to him that the properties of the 1st plaintiff are in Highways and are encroached by the 1st plaintiff and so, the 2nd defendant have to evict it. In fact the Highways road is intact. The suit properties are not in the Highways road. His intention is that if the 1st plaintiff is thrown out from that area he can easily encroach it along with his Eastern side property. It is being tried to be staged as his attempts to purchase it were ended in futile. The suit properties are not belonging to the Highways Department. Even for argument sake if it is said to be belonging to Highways

Department, the 1st plaintiff with the knowledge of the defendants openly, deliberately and without any agitation is enjoying it more than the statutory period and so this defendants are having no right to question it.

1.4. At the instance of the said person, the 2nd defendant has issued a false notice under Section 28 of the Act, stating that the 1st plaintiff has encroached an extent of 78.4 Sqm and 162.0 Sqm in the ghat road, Salem Camp in S.No. 3 and it has to be removed within 15 days on 13.06.2017. There is no encroachment in the ghat road, Salem Camp, because the road is running within the boundary wall. Secondly there is no encroachment in the alleged Highways Road by the 1st plaintiff. This have been explained by the 1st plaintiff to the officials who served the said notice to him. He has also demanded that a fair measurement should be done with the qualified surveyor in the presence of the 1st plaintiff, to state whether the houses of the 1st plaintiff are within the survey No. 3 as stated in the notice.

1.5. But these things were not at all heard by the 2nd defendant's officials. On 14.06.2017, the 1st plaintiff approached the 2nd defendant in his office and stated that the Rough Sketch attached in the said notice is not at all correct and, so the notice have to be recalled. But they did not respond it. Further it is stated that the houses will be evicted soon without any more explanation. It is not at all fair on their part. It is purely against the natural justice. The acts of them are against the provisions of any rules of law. The 1st plaintiff ignores the said notice as it does not bind him and is not issued in accordance with law and followed by any natural justice.

1.6. During the pendency of the suit the 1st plaintiff Shanmugam Asari died leaving the 2nd plaintiff as a legal heir and successor on 04.02.2024. After his demise the 2nd plaintiff is continuing the possession of the suit property. Even during his life time he has executed the General Power of Attorney deed in her favour and she has given evidence in the suit as PW1. since the defendants are continuing their threat, she is continuing this suit.

2) Brief averments in written statement filed by the 2nd defendant and adopted by the defendants 1 and 3 is as follows :

2.1. The defendants specifically denied the averments put forth by the plaintiff in his plaint pleadings. The payment of electric service connection charges and property taxes by the plaintiff for the suit property have not conferred him any absolute title over the suit property. The plaintiff is in illegal occupation of Highways property in order to grab money from the Government by way of compensation for the road widening project from Thoppur-Mettur-Bhavani-Erode. The plaintiff has very recently put the R.C.C. roofed shed in the highways property of the Government.

2.2. The plaintiff deliberately avoided to implead M/s.V.S.Enterprises of Puduchampalli for proper adjudication of the suit. The plaintiff never approached this defendant at any point of time and the rough sketch as alleged by the plaintiff is a prepared one on the basis of measurement taken by the Surveyor of the Government pertaining to encroached portion of the suit property by the plaintiff and others. The plaintiff has failed to implead revenue department for proper adjudication of the suit and on this ground the suit is not maintainable for non-impleading of necessary party to the proceedings.

2.3. The Chief Engineer of State Highways Department of Chennai has passed proceedings in letter No. 3378/agreements-3/2017-1/dated: 20-3-2017 to the 2nd defendant and directed him to remove the encroachments of the Thoppur-Mettur-Bhavani-Erode State Highways at K.M.34/2 within the Mettur Highways Sub-Division. Accordingly, the Divisional Engineer Highways Edapadi vide his letter No.411/2017/Ne-2/dated:18-04-2017 has directed the plaintiff to remove the encroachments made by him in the State Highways in K.M.34/2 of Mettur Sub-Division. In order to identify the extent of encroachment made by the plaintiff in the Highways property, the Government Surveyor has measured the suit property encroached by the plaintiff on the basis of revenue records and found

there are four numbers of encroachments in the said area and submitted a plan drawn to scale to the 2nd defendant on 9-5-2017.

2.4. After that the 2nd defendant has issued a notice under Removal of Encroachment of Highways Land Act 2001 and Highways Rules 2003 to the plaintiff as well as 3 others on 13-06-2017 pertaining to the total extent of encroachments land in Mettur Town Ward-C, Block-1, Town Survey No. 3. The plaintiff has encroached the Highways Land to an extent of 240.4 sq.metre in Town Survey No. 3 of Mettur Town and due to which this defendant is not able to widen the State Highways and causing immense trouble to the road users and public. The plaintiff himself has accepted the said encroachment made by him in the Highways Lands. Hence, this suit is liable to be dismissed.

3) Issues:-

3.1. Upon considering the plaint, written statement and the documents, the following issues were framed on 01.11.2021:-

- (i) வருவாய்த்துறையினரை சேர்க்காததால் இவ்வழக்கு நிலைக்கதக்கதில்லையா?
- (ii) இவ்வழக்கிற்கு வழக்குமூலம் எழுந்துள்ளதா ?
- (iii) வாதி வழக்கு சொத்தில் சட்டப்படியான சுவாதீனத்தில் உள்ளாரா ?
- (iv) வாதி கோரியவாறு நிரந்தர உறுத்துக்கட்டளை பரிகாரம் பெற உரிமையுடையவரா ?
- (v) வாதிக்கு வேறு என்ன பரிகாரம் கிடைக்கக்கூடு ?

3.2. The above issues were re-casted as per Order XIV Rule 5 of CPC as follows :

- (i) Whether this suit is bad for non joinder of necessary party ?
- (ii) Whether there arose cause action for the suit ?
- (iii) Whether the plaintiff is in lawful possession over the suit property ?
- (iv) Whether the plaintiff is entitled for the relief of permanent injunction ?
- (v) To what other relief ?

4) Trial:

(i) To substantiate the claim, the 2nd plaintiff examined herself as PW1 and marked Ex.A1 to Ex.A19. One Mrs. Shenbagavalli was examined as PW2 and One Mr. Thangavel was examined as PW3 and no documents were marked through them. On the other hand, there is no oral and documentary evidence on the side of the defendants.

5) Issue No. (i) :

5.1. The defendants had raised a defence in the suit that the plaintiff had deliberately avoided to implead M/s.V.S.Enterprises of Puduchampalli for proper adjudication of the suit and also failed to implead revenue department for proper adjudication of the suit and on this ground the suit is not maintainable for non-impleading of necessary party to the proceedings.

5.2. It is the contention of the plaintiffs that the 2nd defendant herein on the instigation of the said M/s.V.S.Enterprises of Puduchampalli had alone had given false notice as if the plaintiffs had encroached upon the Highway property and the 2nd defendant is alone interfering with the plaintiffs possession in the suit property. Further, it was specifically stated in the written statement filed by the defendants that the suit property herein is belongs to the Highways department. Such being the position, the contention of the learned counsel for the plaintiffs that since there was no specific cause of action with respect to any interference directly caused by the said M/s.V.S.Enterprises of Puduchampalli they were not added as a parties to the suit proceedings are all having considerable force. Moreover, since the defendants are claiming that the suit property belongs to the Highways department, the non joinder of the Revenue authorities as parties to the present suit proceedings will also not cause any fatal to the suit. The defendants had also not shown any thing to the contrary. Hence, this court holds that the suit is not bad for non joinder of necessary parties. This issue is answered accordingly.

6) Issue No. (ii):

6.1. The defendants herein had raised a defence that there is no cause of action for the suit as alleged by the plaintiffs in their plaint pleadings. It is pertinent to refer the judgment of **Our Hon'ble Supreme Court** with regard to the cause of action in **A.B.C.Laminart Private Limited and another versus A.P.Agencies, Salem** reported in **CDJ 1989 SC 479..**, wherein it was observed as,

" A cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue"

From the above observation made by Our Hon'ble Supreme Court, it is crystal clear that the cause of action is a bundle of fact which support the right of the plaintiff to get a judgment from the court of law and it must also include some act done by the defendant.

6.2. In the plaint pleadings, the plaintiffs had clearly pleaded that the 2nd defendant has issued a false notice under Section 28 of the Act, stating that the 1st plaintiff has encroached an extent of 78.4 Sqm and 162.0 Sqm in the ghat road, Salem Camp in S.No. 3 and it has to be removed within 15 days on 13.06.2017. But there is no encroachment in the ghat road, Salem Camp, because the road is running within the boundary wall. Secondly there is no encroachment in the alleged Highways Road by the 1st plaintiff. This have been explained by the 1st plaintiff to the officials who served the said notice to him. He has also demanded that a fair measurement should be done with the qualified surveyor in the presence of the 1st plaintiff, to state whether the houses of the 1st plaintiff are within the survey No. 3

as stated in the notice. The said pleadings clearly raises a cause of action to the plaintiff to file this present suit. The defendants had also not shown any thing to the contrary, except the averments in their written statement that there was no cause of action and alleged cause of action is false and incorrect one. Hence, the contention of the defendants to this effect is also liable to be rejected and this court holds that there arose cause of action to this suit. This issue is answered accordingly.

7. Issue No's (iii) and (iv) :

7.1. The sum and substance of the case of the plaintiffs is that the 1st plaintiff has put up construction of hut in the suit properties about 65 years ago and latter he has renovated to Mangalore tiled house and now it has been converted in the ACC seated house and was residing therein along with his family. Even prior to 1955, the 1st plaintiff has put up construction, occupied the suit properties and his possession and title to the suit properties were perfected and recognized by the Government Departments. The plaintiffs were also paying the taxes to the concerned authorities without fail.

7.2. But on the instigation of One M/s V.S. Enterprises at 14/1-134, V.S. Arcade, Pudusampalli, the 2nd defendant has issued a false notice under Section 28 of the Act, stating that the 1st plaintiff has encroached an extent of 78.4 Sqm and 162.0 Sqm in the ghat road, Salem Camp in S.No. 3 and it has to be removed within 15 days on 13.06.2017. But there was no encroachment in the ghat road, Salem Camp, because the road is running within the boundary wall. Secondly there is no encroachment in the alleged Highways Road by the 1st plaintiff. Though it was explained to the 2nd defendant, they had not heeded the words of the plaintiffs.

7.3. In this instant case on hand, the 2nd plaintiff, who is the legal heir of the 1st plaintiff and also on the basis of the Ex.A1 - power of attorney executed by the 1st plaintiff had deposed the plaint averments. Ex.A1 to Ex.A19 were marked on the side of the plaintiffs. Ex.A2 and Ex.A3 are the land revenue receipts paid in the

name of the 1st plaintiff from the year 1968 to 1973. Ex.A4 to Ex.A6 are the kist receipts paid in the name of the 1st plaintiff from the year 1976 to 1980. Ex.A7 is the EB receipt dated 14.03.1974 in the name of the 1st plaintiff. Ex.A8 is the property tax receipt in the name of the 1st plaintiff.

7.4. Ex.A9 is the water consumption charges receipt paid in the name of the 1st plaintiff from the year 1988 to 2018. Ex.A10 is the house tax receipt dated 08.09.1999 issued by the Mettur Municipality in the name of the 1st plaintiff. Ex.A11 is the EB receipts paid in the name of the 1st plaintiff. Ex.A16 is the property tax receipts from the year 2018 to 2021 in the name of the 1st plaintiff. Ex.A18 is the EB receipt paid in the 1st plaintiff for the year 2018 to 2021. Ex.A19 is the water consumption charges paid in the name of the 1st plaintiff for the year 2017 to 2021.

7.5. Though the defendants had disputed about the said receipts from the year 1968, the PW2, who is the grand daughter of the 1st plaintiff had specifically deposed that it pertains to the suit property alone. No pertinent question disputing the said documents was put forth to the 2nd plaintiff, who was examined as PW1 and through whom, the said exhibits were marked. Further, the defendants in their written statement had specifically averred that the payment of the electricity charges and property tax for the suit property would not confer any absolute title to the 1st plaintiff. Therefore, it is clear that the defendants themselves admitting the possession of the plaintiffs in the suit property. Moreover, the defendants had not at all averred when the plaintiffs had came into the possession of the suit property. These facts clearly shows that the defendants are admitting the long term possession of the plaintiffs in the suit property. They had also not produced any materials to disprove that the said receipts discussed supra as such it does not pertains to the suit property.

7.6. Though the defendants had filed their written statement disputing the claim of the plaintiffs, they had not turned up to lead any evidence on their side. It is well settled principle of law that the pleadings alone are not evidence and that a party

who wants to prove anything made out of his/her pleadings has to give evidence to prove his/her assertion. The above legal proposition was also observed by **Our Hon'ble Supreme Court** in the case of **U.P. State Electricity Board & Anr vs Aziz Ahmad** in **CIVIL APPEAL NO. 318 OF 2009**, which reads as follows,

“Pleadings are required to be proved and so long evidence is not led in support of the pleadings no reliance can be placed only on the pleadings without there being any cogent evidence in support of the pleadings”

Therefore, as per the above observation, the pleadings of the defendants 1 to 3, by way of written statement without any evidence in support of the same does not have any consideration.

7.7. The suit property herein is described as situated in Salem District, Mettur Taluk, Salem Camp, Mettur Municipality area, Block No. 49, S.No. 1/11, with an total extent of 2558 sqft., bounded by

North to Liahath Ali's house

South to Fathima Bebe's house

East to Ghat Road

West to Gunasekaran's land.

7.8. But in the Ex.A15 - notice issued by the 2nd defendant to remove the alleged encroachment shows that the plaintiffs herein had encroached a portion to an extent of 78.4 x 162.0 sqmt of land in Survey no. 3, Salem Camp by way of constructing AC Sheet building. Admittedly, the defendants had not produced any materials to show that the property in the said Survey no. 03 belongs to the Highway department or that the plaintiff had encroached the said portion of land to the said extent mentioned in the Ex.A15 - notice. They had also not produced any materials to correlate that the suit property in Survey no. 1/11 to an extent of 2558 sqft and Survey no. 03 described in the Ex.A15 notice are all one and the same or that the alleged 2558 sqft of land claimed by the plaintiffs would also comprise in the Survey

no. 03. It is no doubt that the plaintiffs herein is not seeking the relief of permanent injunction in respect of the property described in the Ex.A15 – notice showing as Survey no. 03. Such being the position, it is the bounden duty of the defendants to establish that the plaintiffs herein had encroached upon the property of Highways in Survey no. 03 to which the alleged Ex.A15 notice was issued. But the defendants had not produced any evidence in this regard for the best reason known to them. There was also no plausible explanation on the side of the defendants as to show why no such evidence was produced by them. Moreover, the plaintiffs had filed this suit for the suit property in Survey no. 1/11 and they were also claiming their right only over the same.

7.9. Though the rough sketch given by the revenue department is produced by the plaintiffs as Ex.A17, which shows the extent of alleged encroachment, there was no evidence on record to show that the said measurements were taken in the presence of the plaintiffs or with due notice issued to them. There was also no pleadings to the effect in the written statement filed by the defendants that whether any show cause notice was issued to the plaintiffs before issuing the Ex.A15 – notice to remove the encroachment. It is evident from the discussion made supra that the plaintiffs are in long term possession over the suit property in Survey no. 1/11 without any interference. Such being the position, the possession of the plaintiffs in the suit property has to be certainly termed as settled possession. While being so, the 2nd defendant at least has to issue a show cause notice seeking their objections if any with regard to the alleged encroachment. Moreover, the said Ex.A15 – encroachment notice itself is given to Survey no. 3, whereas, the plaintiffs are claiming their right only over the suit property in Survey no. 1/11. The PW3, who is residing adjacent to the plaintiffs house had also deposed in support of the plaintiffs case. Though the plaintiffs side witnesses was cross examined on the side of the defendants, nothing has been elucidated to disbelieve their testimony.

7.10. Admittedly, though the plaintiffs had established that they were in settled possession of the suit property in Survey no. 1/11, they had not produced any evidence in order to claim title over the same. Though the adverse possession is pleaded in the plaint pleadings, no specific relief in this regard was also sought by them. In these circumstances, if the plaintiffs have to be evicted from the suit property in Survey no. 1/11, then it should have to be done only by due process of law. Therefore, from the overhaul discussion, this court comes to the conclusion that the plaintiffs are hereby entitled for the relief of permanent injunction in this regard. These issues are answered accordingly.

8) Issue No. (v):

8.1. Since the primary relief sought by the plaintiff is granted in his favour as aforesaid, this court on considering the facts and circumstance of the case concludes that the plaintiffs are not entitled to any other relief. This issue is answered accordingly.

In the result, this suit is decreed as follows :

(i) The defendants and their officials, agents, men or any other persons on behalf of them are hereby restrained by way of permanent injunction from in anyway interfering with the plaintiff's possession and enjoyment of the suit properties except under due process of law.

(ii) Considering the facts and circumstance of this case there is no order to cost.

This Judgment is dictated to the steno-typist, typed by him, corrected and pronounced by me in open court on this 31st day of July 2026.

**District Munsif,
Mettur.**

Plaintiffs side witness:

PW1 - Mrs. Krishnaveni (2nd Plaintiff)

PW2 - Mrs. Shenbagavalli

PW3 - Mr. Thangavel

Plaintiffs side exhibits:

Ex.A1	29.06.2022	General Power of attorney executed by the 1 st plaintiff in favour of the 2 nd plaintiff	Original
Ex.A2	---	Land Revenue Receipt in the name of of 1 st plaintiff (10 No's)	Original
Ex.A3	1968 - 1973	Kist receipt in the name of 1 st plaintiff	Original
Ex.A4	1976 - 1980	Kist Receipt in the name of 1 st plaintiff (8 No's)	Original
Ex.A5	07.06.1976	Kist Receipt in the name of 1 st plaintiff	Original
Ex.A6	---	Kist receipts in the name of 1 st plaintiff (25 No's)	Original
Ex.A7	14.03.1974	EB receipt in the name of 1 st plaintiff	Original
Ex.A8	---	Property tax receipt	Original
Ex.A9	---	Water tax receipts in the name of 1 st plaintiff (5 No's)	Original
Ex.A10	08.09.1999	House tax Receipt in the name of 1 st plaintiff	Original
Ex.A11	---	E.B. receipts in the name of 1 st plaintiff (2 No's)	Original
Ex.A12	30.04.2013	Petition in Caveat O.P. 165 of 2013	Served Copy
Ex.A13	30.04.2013	Petition in Caveat O.P. 92 of 2013	Served Copy
Ex.A14	08.05.2013	Petition in Caveat O.P. 40 of 2013	Office Copy
Ex.A15	13.06.2017	Notice issued by the 2nd defendant	Served Copy
Ex.A16	---	Property tax receipt in the name of 1 st plaintiff (3 No's)	Original

Ex.A17	09.05.2017	Rough sketch (Original) along with petition in Caveat O.P. 42 of 2013	Office Copy
Ex.A18	---	E.B. receipts in the name of 1 st plaintiff (7 No's)	Original
Ex.A19	---	Water tax Receipts in the name of 1 st plaintiff(4 No's)	Original

Defendants side witness and exhibits: Nil

**District Munsif,
Mettur.**