

**IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI**

**PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,**

District Munsif, Devakottai

Wednesday, the 25<sup>th</sup> day of March, 2026

**IA.No.09/2024**

**in**

**OS.No.52/2016**

1. Meenakshi Sundaram (died)
2. Rajeshwari
3. Suriyamanikumar
4. Sathya Ganesh

...Petitioners

-Vs-

1. S. Ramasamy
2. S. Chellaiah
3. S. Senthilnathan
4. S. Mariyappan
5. R. Ramanathan
6. S. Abdul Rasak
7. M. Muhammed Haris
8. N. Sabiya Beevi
9. C.Abdul Hakkem
10. M.Mumtaz Begum
11. S. Nabisathu Thahira
12. Maimunathul Badaviya
13. Abdul Hakeem

14. Muhammed Zubair

15. Halisha Beevi

16. The Sub-Registrar, Sub-Registrar Office, Devakottai,

...Respondents

This petition is coming before me for final disposal in the presence of Thiru.S.Sornaprakash learned advocate for the Petitioners, Thiru.N.Ramji learned advocate for the R1 to R3, R5, R14, whereas R4, R6 to R12, R13,R15, R16 was set ex-parte. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

### **ORDER**

**The petition is filed under Order I Rule 10(2) and section 151 of CPC**

#### **1. The averments in the petition are as follows:**

1(i). The petitioner is the plaintiff in the main suit. The suit has been filed seeking prayer of declaration and permanent injunction against the defendants. The petitioner states that the suit property belongs to him as he is in possession of the same and that he has bought the suit property from its previous owner by a registered sale deed dated 11-03-1993 and has been in possession and enjoyment of the same by granting lease. The said sale deed was executed by one Mr. Karuppaiah Ambalam for himself and on behalf of his minor children. The said Karuppaiah owned the suit property by a registered sale deed dated 27.05.1983 who has bought the said property from Ramaiah Ambalam, Chinnapan and Chandran who has executed the sale deed for themselves and on behalf of their minor children. The said above three persons owned the property as an ancestral property. Their father owned the suit property even before the Zameendar

abolition Scheme and Zameen Patta.no.24 was issued in the name of their father. The above said three persons have mortgaged the suit property by a registered mortgage deed dated 20.03.1975 and has obtained a loan. In order to repay the loan they have obtained money from one Mr. Subbaiah and hence to redeem the said loan from Subbaiah they have sold the suit property building. The said Karuppaiah has also bought the property on the Northern side of the suit property namely survey number 219/1 from the above said Subbaiah by a registered sale deed dated 08.09.1992. The said Karuppaiah has also sold the above said property for himself and on behalf of his minor children in favor of the petitioner's relative Kumar Nehru on 11.03.1993. The petitioner owns Soundar Medicals in Devakottai. In order to run the business the petitioner has asked for loan from Devakottti Syndicate Bank in 1996. Since the bank admitted to give loan on mortgage over the suit property and the property on its Northern side, the petitioner has after obtaining legal advice from a legal advice from the legal advisor of the bank, has mortgaged the said property and has obtained the loan. The said loan has been renewed from time to time and the original sale deeds are still in the bank and since the method of registering by writing the document in stamp paper has come into force on 26/09/2007, the petitioner and the above said Kumar Naidu has executed and registered a memorandum in document.no. 3640/2007.

(iii). When the petitioner bought the suit property it existed in patta number 122 and subsequently he has changed the patta in his name in patta number 918. The 10(1) copy of the patta number 918 and adangal and the receipt given by the Cooperative Bank for the closure of loan dated 30/06/1993 and the land tax receipt along with the original sale deed dated 27/05/1983 have been placed in the Syndicate Bank in 1996. At the same time, the owner of the survey number

291/1 Kumar Nehru's mortgage was not registered. Subsequently, after the Stamp Act, 1899 was amended the petitioner and the Kumar Nehru's has executed a registered memorandum in favor of the Syndicate Bank with respect to the suit property and survey number 219/1 on 26/09/2007. The petitioner states that he has fenced the suit property and is in possession and enjoyment of the same. He states that there exists two well within the property and a building with blue asbestos sheet is also in the suit property. He has also placed a bore well and has built a water tank and is cultivating the suit property and in the part of the suit property, the statue of his ancestor Meenatchi Ammal lies and the family of the petitioner is considering the said statue as in godlike. The petitioner states that he has already obtained EB connection for the purpose of agriculture in the suit property. The petitioner states that the 1st defendant is the Ambalakarar of Semponmarinaadu and states that he is very powerful. The 1st defendant has with an intent to acquire a part of the suit property has influenced corrections in the revenue records and created records as if during the period of settlement the father of the defendant's name existed in the records as joint pattadar. He should have made these corrections when he was a Village Administrative Officer and if the original records are to be brought the truth would be known.

(iii). The respondent has not mentioned as to when the correction was made or on the basis of what the said correction was made. The 1st defendant has given admission to the Tahsildar of Devakottai stating that he has shared the suit property with the petitioner and asked for his name and his brother name to be registered as joint owners of the suit property which was dismissed by the above said Tahsildar of Devakottai after perusing the records. Against which the appeal was filed by the respondent to the District Revenue Officer of Sivagangai

who has passed an order on 05-05-2014 without perusing the records to issue a joint patta including the names of this petitioner along with the respondent. It has been admitted that during UDR period the defendant's name or the name of the said Subburaman Ambalam did not exist. The said order has been made without producing any documents and without any basis. Against the same the petitioner has filed an appeal to the Commissioner of Land Commission but no reply has been received till then. Also, on an application under Right to Information Act, 2005 the reply has been received stating that the Information Officer does not know as to on what basis the said Subburaman Ambalam's name was added in the records. The 1st defendant has admitted the fact that the petitioner and the 1st defendant are in equal possession enjoyment of the property but the computer patta for survey number 219/12 has been entirely made in the name of the defendant. In the meanwhile, on 05-04-2016 the petitioner has received information stating that the defendant is destroying the trees in the suit property and when the petitioner asked about the same the defendants have threatened the petitioner and hence on the next day the petitioner has filed a complaint to the Aravayal Police Station. But no actions were taken on the same. In the meanwhile since it is proper to obtain an order from the the petitioner has filed the suit.

1(iv) In the meanwhile, steps were taken by the petitioner in I.A.No.426/2016 for appointment of an advocate commissioner and the said Advocate Commissioner was appointed and the report has been filed and in the petition filed for temporary injunction in I.A.No.425/2016, the court has ordered status quo for the period of one year on 11-01-2017. In the meanwhile, the defendants with an intent to acquire the property and to encumber the property further has created a registered sale deed with respect to the suit property in

favor of 4 to 15 defendants and has encumbered the property subsequently in favor of several persons and the 1 to 3 defendants have misused their influence and have given false complaints to Aravayal Police Station and are planning to plant flat stones in the suit property. The petitioner is ready to conduct the trial in the main suit. But the defendants are subsequently encumbering the property further and preventing the plaintiff from commencing the trial. If a separate suit is to be filed against such persons multiple proceedings will occur. Hence while the said suit is pending, since the Sub-Registrar of Devakottai is executing multiple registered documents with respect to the suit property, a temporary injunction application is to be filed against the said Sub-Registrar. Hence it is essential that the proposed 16th defendant who is the Sub-Registrar of Devakottai should be added as essential party to the suit. The petitioner states that adding this person will not cause much loss to the defendants. Hence, he prays for the petition to be allowed.

**2. Averments in the counter are as follows:**

The respondent has denied the contentions of the petition and stated that the suit has been filed in the year of 2016 and written statement was filed by the 1 to 3 defendants on 22.11.2016 and subsequently issues were framed on 11.01 .2017 and an order of status quo was granted by this court by order in I.A.No.425/2016. After that, since 20.01.2017 the trial has not been commenced and the plaintiff has been causing delay by filing subsequent interim applications. Since the plaintiff did not obey the court's order and has kept the suit pending for more than 10 years, the 1 to 3 defendants have sold their share of the suit property. Even now, instead of commencing the trial, the petitioner has filed this petition. If the plaintiff/petitioner has conducted the trial properly, the relief could have been obtained. But instead of doing that he is wilfully

delaying the proceedings of the court and has filed this petition with an intent to drag on the proceedings of the case. Despite the suit being posted for trial and the court has ordered to complete the trial within a particular time, the petitioner has filed this petition with an intent to drag on the proceedings of the case. Hence, he prays for the petition to be dismissed.

**3. Now the question to be decided is whether the petition has to be allowed or not?**

Petition and counter perused. Enquiry heard on both sides. The petition has been filed to implead the proposed 16th defendant who is Sub-Registrar of Devakottai. The petitioner has stated the reason that the defendants have made subsequent encumbrances with regard to the suit property and hence to prevent further encumbrances it is essential to add the Sub-Registrar as a necessary party to the suit. On the other hand, the respondent has denied the contentions of the petition and has stated that despite giving ample time to conduct trial within a particular time, the plaintiff has not commenced the trial and has been dragging on the case for more than 10 years and hence the defendants have sold their share in suit property. Hence he prayed for the petition to be dismissed. Both sides averments perused. On perusal of records, it becomes clear that the suit was filed in the year of 2016. It has been a decade since the suit has been filed and the trial has not been commenced. On perusal of records, it becomes clear that the subsequent defendants were impleaded in the suit, as the suit property was encumbered in their favor. It is a well established principle that any encumbrances subsequent to the institution of suit with respect to suit property after the institution of the suit will be subject to the outcome of the suit. Hence it would be important to give the subsequent purchaser an opportunity to be heard before the suit is decided. Hence, the subsequent encumbrances are to be added

as parties in the suit. This being so, since the suit property has been subjected to several encumbrances after the institution of the suit, it is important to add the Sub-Registrar of Devakottai as an additional party to prevent such encumbrances in the future. If not done so, the suit property would be subjected to further encumbrances and the suit would be kept pending for a long time unnecessarily. Hence in order to curb further encumbrances and to avoid multiplicity of proceedings and also to avoid undue delay in conducting the trial, the court finds it fit to allow this petition. Hence, in the end, the petition is allowed and the petitioner is hereby directed to conduct the trial effectively without any delay and without any unnecessary adjournments. Also, considering the fact that the suit is of the year 2016 the plaintiff should have taken measures to implead the said proposed 16th defendant when the property was encumbered at the first instance. Because of the petitioner's negligence the suit has been kept pending for a decade by adding the subsequent encumbrances as a party in the suit. Hence, the court finds it fit to impose a cost of rupees 1000 on the petitioner to be paid to the respondents for the delay caused in taking steps to implead of the proposed defendant and also for delaying the suit for over a decade. The court believes that this cost would have a deterring effect on the petitioner to avoid such unnecessary delay in the future. Hence, in the end, the petitioner is allowed with a cost of rupees 1000.

#### **4. Decision**

**In the end, the petition is allowed with a cost of rupees 1000.**

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 25<sup>th</sup> day of March 2026.

**sd/-Tmt.R.Premi**  
**District Munsif,**  
**Devakottai.**

**Annexures:**

List of witnesses on the side of the Petitioners-Nil-

List of documents on the side of the Petitioners-Nil-

List of witnesses on the side of the Respondents-Nil-

List of documents on the side of the Respondents-Nil-

**sd/-Tmt.R.Premi**  
**District Munsif,**  
**Devakottai.**

