



Scan the code using 'e Courts Services'
mobile application download from Play Store.

1

A.S. No.01/2026

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THENI

**Present: Thiru.Swarnam J. Natarajan, M.L.,
Principal District Judge, Theni**

Monday, this the 27th day of April, 2026

Appeal Suit No.01/2026

C.N.R. No.TNTH01-000037-2026

M. Sakthisubramani,
S/o Muthukannu

...Appellant/Plaintiff

Vs

K. Rajendran,
S/o Karuppathevar

...Respondent/Defendant

Appeal against the Decree and Judgment dated 18.11.2025 in
O.S. No.90/2024 on the file of Subordinate Court, Uthamapalayam.

Between:-

M. Sakthisubramani

... Plaintiff

Vs

K. Rajendran

...Defendant

This Appeal suit was coming up for final hearing on 19.02.2026 in the presence of Thiru. T. Ganesan, Advocate for the Appellant/Plaintiff and of Thiru. P. Karuppasamy, Advocate for the Respondent/Defendant and upon perusing the records and the trial Court Judgment and decree and on hearing both side arguments, this Court delivered the following;

27.04.2026

Principal District Judge, Theni.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

J U D G M E N T

The unsuccessful plaintiff in O.S. No.90 of 2024 suffered a judgment and decree dated 18.11.2025 from the learned Subordinate Judge, Uthamapalayam in the suit instituted by the plaintiff, seeking for declaration with respect to the right of the plaint schedule property first item and for an injunction, restraining the defendant from interfering with the peaceful possession and enjoyment of the suit property. After full-fledged trial, the suit was dismissed by the trial court. Being aggrieved and dissatisfied with the same, the present appeal was preferred.

2. The brief facts stated in the plaint in brief is as follows:-

i. The schedule mentioned properties 1, 2 and 3 originally belongs to one R. Subramanian Chettiar and his brother R. Natarajan. After the demise of R.Subramanian Chettiar, his share in the said properties devolved upon his wife Singarathammal, their children Palaniyandavar, Ramasamy, Mani and Sankaran. With respect to first item of the suit property, Singarathammal for and on behalf of herself and for her minor children, Ramasamy, Mani, Sankaran and Palaniyandavar, along with other co-owner R. Natarajan had jointly sold the first item of the schedule mentioned property for an extent of 6 cents to A.S.Rajamanickam Pillai, vide sale deed dated 01.05.1959, registered as Doc.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

No.1608 of 1959, on the file of Sub-Registrar, Cumbum (Ex.A4). The said Rajamanickam Pillai had purchased the first item of the schedule mentioned property with other properties, whose father's name is V.P.A.Subramania Pillai, @ V.P.A.Mani Pillai.

ii. With respect to the second schedule of the property, Singarathammal for herself and as a guardian for her minor child, Palaniyandavar, Ramasamy, Mani and Sankaran, along with the co-owner R.Natarajan had jointly sold the second item of the schedule mentioned property measuring 5 cents to Rangasamy Pillai, vide Ex.A3, sale deed dated 22.01.1959, Doc. No.226 of 1959 on the file of Sub-Registrar, Cumbum. Thereafter, the said Rangasamy Pillai had sold the property to Rajamanickam Pillai, vide Ex.A5, deed of sale dated 09.09.1962, as Doc. No.1985 of 1962 on the file of Sub Registrar, Cumbum.

iii. The grandfather of the plaintiff, namely Karuppapillai had approached the said A.S.Rajamanickam Pillai, intending to purchase suit property item 1, which Rajamanickam Pillai also agreed to sell the same. However, while executing the sale deed, the above said Rajamanickam Pillai had mistakenly relied on the parent document of schedule number 2 and executed Ex.A14, deed of sale dated 21.03.2007, registered as Doc. No.1191 of



Scan the code using 'e Courts Services'
mobile application download from Play Store.

2007 on the file of Sub-Registrar, Cumbum. While executing the sale deed, the measurement of schedule 2 of the property was mistakenly mentioned as 2291 1/4 square feet and by mistake the boundary recitals were shown different from the parent document. Hence, literally the above Rajamanickam Pillai had sold second item of the suit property to the plaintiff's grandfather Karuppapillai instead of first item of the suit property and handed over possession of the first item of the suit property.

iv. Thereafter, the plaintiff's grandfather in the year 2010 had settled the property through Doc. No.275 of 2010 on the file of Sub-Registrar, Cumbum in favor of the plaintiff. From then onwards, the plaintiff is in possession of the suit first item of the suit property by acquiring title over the same.

v. The third item of the suit property is measuring 10 cents, which is on the western side of the first item of the suit property, which was originally sold by Singarathammal for herself as a guardian for her minor child, Palaniyandavar, Ramasamy, Mani, Sankaran and co-owner R.Natarajan to Periasamy Pillai, vide Ex.A2, sale deed dated 22.06.1958, registered as Doc. No.1572 of 1958, on the file of Sub-Registrar, Cumbum. The said Periasamy Pillai for himself and as a guardian for his minor children, Masanam, Ramesh Kumar and Suresh Kumar had sold schedule 3 property to Ramasamy Konar,



Scan the code using 'e Courts Services'
mobile application download from Play Store.

through Ex.A6, sale deed dated 29.08.1966, registered as Doc. No.1940 of 1966, before the Sub-Registrar, Cumbum. Thereafter, the purchaser Ramasamy Konar had sold the said schedule number 3 property, 10 cents to 3 persons, who had sold 4 cents on the western side to R.Chellaiah Pillai, vide Ex.A7, sale deed dated 30.08.1968, Doc. No. 2218 of 1968 on the file of Sub-Registrar, Cumbum. Then Ramasamy Konar sold 3 cents on the eastern side to Nagammal, vide Ex.A8, sale deed dated 30.08.1968, registered as Doc. No.2220 of 1968 on the file of Sub-Registrar, Cumbum. The property purchased by Nagammal is the property situated on the western side of the schedule 1 property. Thereafter, Ramasamy Konar had sold 3 cents, which is situated in the middle to Velu Pillai, vide Ex.A9, deed of sale dated 30.08.1968, registered as Doc. No.2221 of 1968 on the file of Sub-Registrar, Cumbum. Thereby, the said Ramasamy Konar had sold entire suit schedule 3 property.

vi. Thereafter, Nagammal and her children, Kannuchami Pillai, out of 3 cents had jointly sold 2 cents on the southern side to Ramu Asariyar, vide Ex.A10, deed of sale dated 16.05.1973, Doc. No.1501 of 1973, on the file of Sub-Registrar, Cumbum and the remaining 1 cent on the northern side to Gandhiammal, vide Ex.A11, sale deed dated 16.05.1973, registered as Doc. No.1502 of 1973 on the file of Sub-Registrar, Cumbum. Thereafter,



Scan the code using 'e Courts Services'
mobile application download from Play Store.

Gandhiammal, her children Vijaya, Sumathi, Adhimurugan for themselves as a guardian of the minor children Muthuselvan and Gayathri had sold the said property to Nandagopal, vide Ex.A12, sale deed dated 12.12.1996, Doc. No.4253 of 1996 on the file of Sub-Registrar, Cumbum. Thereby, the western boundary of the first item of the schedule mentioned property is the eastern boundary of the third item of the schedule mentioned property owned by Ramu Achari and Nandagopal. In the sale deed of Nagammal and Ramu Asariyar, the eastern boundary was mentioned as V.P.A. Mania Pillai land, who is the father of the said A.S. Rajamanickam Pillai.

vii. After the demise of Ramasamy Konar, by suppressing the above factum, the legal heirs of Ramasamy Konar namely his wife Kannimaramal, their children Ayyappan, Thenmozhi, Kousalya had entered into Ex.A13, partition deed on 01.11.1999, Doc. No.3262 of 1999 on the file of Sub Registrar, Cumbum by including third item of the suit property, which was allotted to the share of the said Ayyappan as ninth item of the property. The said Ayyappan had executed Ex.A16, power of attorney on 08.08.2011, Doc. No.526 of 2011 on the file of Sub-Registrar, Cumbum in favor of Jeganathan and through Jeganathan, Ayyappan had executed Ex.A17, sale deed on 22.08.2011, registered as Doc. No. 4282 of 2011 on the file of Sub-Registrar, Cumbum in



Scan the code using 'e Courts Services'
mobile application download from Play Store.

favor of the defendant. Thereby, the third item was sold to the defendant. The above document is sham and nominal and would not confer valid title to the defendant through Ayyappan and Jeganathan.

viii. The defendant started claiming right over the suit property and tried to encroach upon the suit first schedule, which was under possession of the plaintiff. Thereby the plaintiff had filed a suit seeking for permanent injunction in O.S. No.219 of 2012 on the file of the District Munsif, Uthamapalayam, by showing the property as second schedule. The plaint in the suit and the written statement and the reply statement were exhibited in the suit as Ex.A18, Ex.19 and Ex.A20. Ayyappan and Jeganathan had remained ex-parte. However, the defendant contested the suit and made a defence with regard to the discrepancy in the document. However, never questioned the title of the vendor of the plaintiff, who had passed on title to the plaintiff. The District Munsif of Uthamapalayam, after considering all the aspects was pleased to dismiss the suit by giving a finding that the boundary recitals and measurements of the suit schedule property do not tally, vide judgment dated 08.03.2018. Ex.A21 and Ex.A22 are the judgment and decree of the court.

ix. Challenging the said order, the plaintiff had filed appeal in A.S. No.14 of 2018 on the file of the District Court, Ex.A23. Pending appeal, the



Scan the code using 'e Courts Services'
mobile application download from Play Store.

plaintiff verified the land documents and found that they had purchased second item of the suit property instead of first schedule property. In fact, first item of the suit property was originally purchased by Rajamanickam Pillai, vide Ex.A4, deed of sale dated 01.05.1959, registered as Doc. No.1608 of 1959 on the file of Sub-Registrar, Cumbum. After the demise of the said Rajamanickam, the first item of the suit property devolved upon his legal heirs R. Vanitha, children Banumathi and Sakthi Subramanian. The plaintiffs in addition to the schedule 2 of the property had purchased schedule 1 of the property from the said Vanitha, Banumathi and Sakthi Subramanian under Ex.A24, deed of sale dated 18.02.2022, as Doc. No. 967 of 2022 on the file of Sub-Registrar, Cumbum. The appeal was dismissed on 08.11.2023 with a specific findings that the plaintiff has to rectify the property description and file a comprehensive suit seeking for declaration to find a quietus in the above factor.

x. So there was no finding given by the court earlier with respect to the right of the plaintiff on the defendant, Ex.A26 and Ex.A27. Meanwhile, the first item of the suit property patta was changed in the name of the plaintiff and the same continued to be in the name of the plaintiff till date, Ex.A25. As per the patta, the total property measuring 2 acres 19 cents, which was arrived after leaving some extent for the pathway and the plaintiff had restricted the suit



Scan the code using 'e Courts Services'
mobile application download from Play Store.

schedule property 1, measuring 2 acres 19 square meters. The defendant had gained knowledge about the grant of patta in the name of the plaintiff.

xi. As there were confusions regarding the title of the suit property over first schedule, which was purchased by the plaintiff on 18.02.2022, the present suit is filed seeking for declaration and injunction. The plaintiff had filed the earlier suit basing upon the title documents of second schedule of the suit property and the present suit is filed for declaration of the plaintiff's right with regard to first item of the suit property based on the title deed dated 18.02.2022. In the earlier suit, there is no finding with regard to the title of first item of the suit property, thereby the present suit is not hit by res judicata and the plaintiff had obtained title to the suit schedule property, Ex.A24, and the same is within the period of limitation. Hence, the present suit is filed.

xii. According to the plaintiff, the defendants have no right title over the third schedule property, since the same was sold by the ancestors of Ayyappan. The said Ayyappan could not have perfected any right or title over the same and through Jeganathan, the defendants could not have claimed valid right title over the third item of the suit property. First item of the suit property is a different property from third schedule of the property. Thereby, the defendant can have no valid objection with regard to right title and possession of



Scan the code using 'e Courts Services'
mobile application download from Play Store.

the first item of the schedule property. The defendant is threatening the plaintiff to encroach upon the suit property. Hence the suit is filed.

3(i). In the written statement filed by the defendant and additional written statement, the purchase of the property by the defendant through Ex.A7 to Ex.A12 with regard to third item of the suit property are not specifically denied. The defendant in the additional written statement had claimed that he had purchased the first item of the suit property under Ex.A17, which is against the original plea taken. The defendant had not disputed the property description in Ex.A17 before filing the additional written statement. Now the defendant cannot claim the contrary in the additional written statement as well as in the evidence. If the claim of the defendant is that the property description in Ex.A17 is not correct, since the same is not rectified yet, the defendant cannot claim title over the same. There is no pleadings or evidence to show that the recitals of schedule 3 has been challenged in the suit in schedule 1. Hence, the defendant contended that the suit is not maintainable.

3(ii). The predecessor in title of the defendant namely Periasamy Pillai after having purchased the property Singarathammal had no right over the suit property. Thereby, Singarathammal cannot have sold the property to the predecessor in the title of the suit property and sale deed infavour of the plaintiff



Scan the code using 'e Courts Services'
mobile application download from Play Store.

dated 18.02.2022 is a created document and never confer right upon the Ramasamy Konar. From 1958 onwards the defendant continue to be in possession and enjoyment of the suit property, thereby, the defendant prays for dismissal of the suit.

4. Based on the above pleadings, the following issues are framed for trial:-

- 1) Whether with respect to the first item of the suit property, whether the plaintiff is entitled for declaratory relief as prayed for ?
- 2) Whether the first item of the suit property is in possession and enjoyment of the plaintiff ?
- 3) Whether with respect to the first item of the suit property, whether the plaintiff is entitled for permanent injunction as prayed for ?
- 4) Whether the property description mentioned by the plaintiff in the plaint schedule is correct ?
- 5) Whether the suit claim is barred by limitation ?
- 6) Whether the suit claim is barred by principles of res judicata ?
- 7) Whether the plaint is bad for non-joinder of necessary parties ?
- 8) Whether the plaintiff is entitled for any other relief sought for ?



Scan the code using 'e Courts Services'
mobile application download from Play Store.

5. On the side of the plaintiff, one Sakthi Subramanian was examined as PW1. Ex.A1 to Ex.A27 were marked. One Muthukkannan was examined as PW2, Surulivel was examined as PW3. On the side of the defendant, Rajendran was examined as DW1, through whom Ex.B1 to Ex.B11 and the advocate commissioner' report and Sketch were marked as Ex.C1 to Ex.C4.

6. The findings of the trial court:-

i. The trial court was pleased to give a finding that the property mentioned in Ex.A4 and property mentioned in Ex.A24 are not the one and the same property and the same does not relate to first item of the suit property. After Ex.A4, after 41 years Ex.A24 the property has been purchased by the plaintiff and the same does not belong to first item of the suit property. The plaintiff is duty bound to describe the plaint schedule property under Order 7 Rule 3 CPC with proper description.

ii. V.P.A.Subramania Pillai, the vendors mentioned in the sale deed and Mania Pillai are one and the same was not proved by the plaintiff. The plaintiff had failed to prove that what is the extent of the property, 10 cents which falls in the larger extent of the property and where the same situates. In this regard no documents were filed on the side of the plaintiff. So based on the settlement deed executed Ex.A15, the plaintiff is not enjoying the suit property.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

The suit is not barred by res judicata. The property purchased in Ex.A4 and property subsequently purchased in Ex.A24 are not the one and the same property. Thereby the trial court was pleased to reject the claim of declaration and permanent injunction and dismiss the claim with regard to limitation, non joinder of parties, res judicata and ultimately the suit was dismissed by the trial court.

7. The points raised in the grounds of appeal:-

a. The trial court by considering issue number 1 and 4 had wrongly looked into schedule 1 mentioned in Ex.A4, instead of looking into schedule 3 in Ex.A4, which is the property purchased by the plaintiff under Ex.A4 for consideration. The trial court had wrongly relied upon the first schedule instead of third schedule and was pleased to dismiss the suit which is liable to be set aside. The trial court failed to consider the survey sketch filed along with the commissioner report for the entire survey number 691, which was not subdivided and demarked into town survey numbers.

b. The trial court failed to consider the fact that the old survey number for the suit property 691 and not 683 by part. The old survey number 683 / part in patta is wrong. The old survey number mentioned in Ex.A4 and Ex.A24 in survey number 691 is the correct survey number. The advocate commissioner



Scan the code using 'e Courts Services'
mobile application download from Play Store.

has filed a report stating that the old survey number 683 / part in TSLR extract is wrong and the same has to be rectified. Since the civil proceedings are pending, no action has been taken for rectifying the same. The trial court has not considered the wrong entries in revenue records and the trial court judgment is to be set aside in the appeal.

c. The trial court failed to consider the fact that under Ex.A4, the total property transferred is measuring 34 cents, wherein the first schedule is measuring 6 cents. The trial court ought to have considered that the original document Ex.A4 will not be given when a meager portion of the property is sold. Thereby the original document would not be in the hands of the plaintiff.

d. The trial court had failed to consider the fact that northern boundary in Ex.A4 is as east-west street and northern boundary of Ex.A24 and the suit first schedule is east-west road which tallies, but the trial court has given a wrong finding that the northern boundary in survey number 690 / 8 is wrong, which is liable to be set aside. The trial court failed to consider the fact that the Ex.A25 patta tallies with the third schedule in Ex.A4. The trial court failed to consider the boundaries, hence the appellant prays for allowing the appeal.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

8. The points for consideration in the appeal are:-

1) Whether the trial court erred in considering the title deed of the plaintiff, Ex.A4, third schedule and erred in relying upon first schedule in Ex.A4?

2) Whether the trial court failed to consider the fact that under Ex.A24, the plaintiff had purchased the property from the real owner and entitled for declaration ?

3) Whether the trial court erred in considering the fact that when nobody is in possession of the property and it is a vacant land, the title follows possession of the property ?

4) Whether the trial court failed to consider the fact that the defendants failed to prove their title with respect to the property and they have no claim with respect to the property purchased by the plaintiff ?

5) Whether the judgment and decree of the trial court requires interference in the appeal, if so whether the appeal is to be allowed for the points raised in the grounds of appeal ?

9. The learned counsel for the appellant filed his written arguments and contended that the advocate commissioner who had surveyed the property with



Scan the code using 'e Courts Services'
mobile application download from Play Store.

the help of surveyor had filed a detailed report before the court, wherein the schedule property's boundaries were in consonance with the first item of the suit property, which has not been considered by the trial court. As per the revenue records, Ex.B6 is not related to survey number 20 and there is no documents filed on the side of the defendant to prove that the property mentioned in Ex.B6 is situated. The same cannot be accepted. The name in town survey number 20 is wrongly mentioned. The same cannot be taken advantage by the defendant.

10. Out of the total property measuring 10 cents in town survey number 20, the property on the western side measuring 4 cents stands in the name of Chellaiah Pillai. Hence by mistake the entire land in town survey number 20 was wrongly recorded in the name of Chellaiah Pillai, which will prove the claim of the defendant is wrong.

11. The defendant had preferred writ petition before the Hon'ble Madurai bench of Madras High Court seeking for survey of the property comprised in town survey number 21. The same does not reflect his name or his title of the predecessor. The same has been accepted by the defendant during cross-examination. The learned counsel for the appellant further contended that the defendant had raised specific question by accepting the title of the said Rajamanickam Pillai over the first item of the suit property they cannot allege



Scan the code using 'e Courts Services'
mobile application download from Play Store.

the contrary. The defendant had admitted certain version during cross-examination admitting the title of the property.

12. The learned counsel for the appellant relied upon the judgments reported in ***Anathula Sudhakar vs P.Buchi Reddy 2008 (4) SCC 594*** - If the property is a vacant site, which is not physically possessed, used or enjoyed, in such cases, the principle is that possession follows title. If two persons claims to be in possession of a vacant site, one who is able to establish title thereto will be considered to be in possession as against the person who is not able to establish title. This means that even though a suit relating to a vacant site is for a mere injunction and the issue is one of possession, it will be necessary to examine and determine the title as a prelude for deciding the de jure possession.

13. The judgment relied upon by the appellant is ***Kizhakke Vattakkandiyil Madhavan vs Thiyyurkunnath Janaki 2024 INSC 287*** - If substance of a deed is proved in evidence, the title of the executing person does not automatically stands confirmed. If a document seeking to convey immovable property ex facie reveals that the conveyor does not have the title over the same, but in absence of proper title over the subject property that lease deed even if she was in its sole lessor would not have been legally valid and enforceable.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

14. The judgment reported in ***Thangam and another vs Navamani Ammal, 2024 INSC 164*** - There is no specific denial by the defendant. It provides for specific admission and denial of the pleadings in the plaint. Thereby, the appellant contended that the defendant had not specifically denied the plaintiff's title.

15. ***G.Nagaiyan & Anr vs K.Palanivel 2022 Live Law (Mad) 126*** - Doctrine of approbate and reprobate holding that a litigant cannot be permitted to take two different contrary stands between two different forums. So the learned counsel for the appellant contended that the defendant had taken two different stands in the earlier litigation and in the present case and the dismissal of the suit by the trial court is to be set aside in the appeal and he prays for decreeing the suit.

16. On the other hand, the learned counsel for the respondent filed his written arguments and contended that the plaintiff has not specifically come forward with a specific case and failed to prove his case while seeking for declaration and the trial court had rightly appreciated the evidence and was pleased to dismiss the suit. Hence, no interference is required in the present appeal.

17. He relied upon the judgments reported in ***1999 (1) MLJ P.607 M.Venkammal vs Rathina Udayar and another, 1999 MLJ (Supp) P.260***



Scan the code using 'e Courts Services'
mobile application download from Play Store.

V.Mariappan and others vs Marudan and others, 2011 (5) CTC 94 Vishwas Footwear Company Limited vs The District Collector Kancheepuram and 4 others, 2007 (6) SCC 186 Suraj Bhan and others vs Financial Commissioner and others, 1999 3 CTC 650, AIR 2001 Karnataka 297, 2017 (6) CTC 764 U.Manjunath Rao vs Chandrasekhar and another and Nagamma vs Siddarame Gowda dated 19.03.2025. Based on the above judgments, the respondent prays for dismissal of the suit.

18. I have given my anxious consideration to the submissions made by both the parties. Ex.A17 is the sale deed dated 22.08.2011 between Rajendran and R.M.Ayyappan, the defendant and Ayyappan power agent M.Jeganathan, in which the document recites that,

“மேற்கண்ட சுவான்தாருக்கு கம்பம் SRO-1354-157-3262/1999 நம்பர் பாகப்பத்திரத்தின்படி B செட்டியூல் பாகமாக பாத்தியப்பட்ட சொத்தில் 9வது லக்கச் சொத்தாக பாத்தியப்பட்டு அனுபவித்து வருவதும் என்னுடைய நிர்வாகத்தில் இருந்து வருவதுமான அடியில் கண்ட விவரப்படியுள்ள சொத்தை இன்றைய தேதியில் நான் உங்களுக்கு ரூபாய் 2,00,000/- இரண்டு லட்சத்திற்கு கிரயம் செய்து கொடுத்து கிரயத்தொகை முழுவதையும் ஷை சுவான்தாரின் குடும்ப நலக் காரியங்களுக்காக வேண்டி நான் தங்களிடம் நேரில் ரொக்கம் பெற்றுக்கொண்டு ஷை சொத்தையும் நாளது தேதியில் தங்களின் கிரய சுவாதீனப்படுத்தி இத்துடன் தங்கள் பெயருக்கு பட்டா பெயர் மாற்றம் பெயர் மாறுதல் மனுவும் சேர்ந்து கொடுத்து விட்டேனாகையால் தாங்கள் இன்று முதல் அடியிற்கண்ட கிரயச்



Scan the code using 'e Courts Services'
mobile application download from Play Store.

சொத்தை தங்கள் இஷ்டம் போல சர்வ சுதந்திரமாய் ஆண்டனுபவித்துக்கொண்டு
சுகத்தில் இருந்து கொள்ள வேண்டியது”.

The schedule of property is mentioned as property in survey number 691,
2 acres 50 cents in the middle of the said property, north to common pathway,
west to Chellaiah Pillai vagaira's land, east to Natarajan vagaira's land and south
பொது பாதை. East west 56 feet, north south 79 and half feet, totally 4466 square
feet vacant land.

19. According to the defendant, the property was purchased by them under
Ex.A17. Ex.A24 is the sale deed purchased by the plaintiff on 18.02.2022 by the
plaintiff Sakthi Subramanian from Vanitha, wife of Rajamanickam,
R.Banumathi, where in the sale deed recites that,

“லேட்.ராஜமாணிக்கம் அவர்களுக்கு கம்பம் SRO-1-271-77 to 79-
1608/1959 நம்பர் கிரையப் பத்திரப்படி பாத்தியப்பட்டு மேற்படி ராஜமாணிக்கம்
அவர்கள் அனுபவித்து வந்து மேற்படியார் காலம் சென்றதின்மேல் மேற்படியாரின்
வாரிசான எங்களுக்குப் பாத்தியப்பட்டு நாங்கள் எங்கள் கைவசம் வைத்து
அனுபவித்துக்கொண்டு வரும் அடியில் கண்ட விவரப்படியுள்ள புன்செய்
நிலத்தை நாளது தேதியில் நாங்கள் தங்களுக்கு ரூபாய் 7,07,000/-த்திற்கு
கிரையம் செய்து கொடுத்து மேற்படி கிரையத் தொகை முழுவதும் இன்று
தேதியில் நாங்கள் தங்களிடம் எங்களுடைய குடும்ப அபிவிருத்தி
காரியங்களுக்காக வேண்டி நேரில் ரொக்கம் பெற்றுக்கொண்டு மேற்படி
சொத்தையும் இன்றுமுதல் தங்கள் கிரைய சுவாதீனப்படுத்திவிட்டோமாகையால்
இன்று முதல் தாங்கள் மேற்படி கிரைய சொத்தை தங்களிஷ்டம்போல் சர்வ



Scan the code using 'e Courts Services'
mobile application download from Play Store.

சுதந்திர பாத்தியங்களுடன் ஆண்டனுபவித்துக்கொண்டு
சுகத்திலிருப்பீர்களாகவும், மேற்படி கிரைய சொத்தைப் பொறுத்து யாதொரு முன்
வில்லங்க விவகாரங்கள் இல்லை.”

The schedule mentioned property has been mentioned as property in
survey number 691, கம்பம், உத்தமபாளையம் கிராமம், வார்டு 29, ரேஞ்சு ஆபிஸ்
தெரு, 2 ஏக்கர் 50 செண்டில் in between 6 cents காலி மனை, whose four
boundaries are கிழக்கு - சின்னப்பா பிள்ளை மனையும், கிழ மேல் 5 அடி
அகலமுள்ள தென் வடல் பாதையும், மேற்கு - ராமு ஆசாரி மற்றும் நந்தகோபால்
மனையும், வடக்கு - கிழமேல் ரோடு, தெற்கு - சந்துப்பாதை. 2616.1/4 சதுரடி
காலிமனையிடமும்.

20. According to the plaintiff, the said property has been purchased after
dismissal of the earlier appeal under Ex.A24 from the vendors afresh with
respect to the first item of the suit property, wherein in the said sale deed
Ex.A24 nowhere the same is recited that the property originally was purchased
in 1959, 22.01.1959, however the property has been described as second item in
the sale deed, however they were in possession of the said property in respect of
item 1 of the schedule mentioned property. The said fact has not been indicated
or recited in Ex.A24. It is mentioned as a fresh sale deed as if the plaintiff
purchased the property only in 2022 and taken possession of the property.
Nowhere it is stated that the property was purchased by the plaintiff in 1959



Scan the code using 'e Courts Services'
mobile application download from Play Store.

itself and the same has been repurchased under Ex.A24 and the same has been re-purchased under Ex.A24.

21. Under such circumstances, from 1959 onwards, who is in possession and enjoyment of the first item of the suit property, in whose favor the property patta has been possessed, who was paying the tax to the government, who is in possession, was not proved by the plaintiff.

22. In order to see the lie and nature of the property, the advocate commissioner was appointed. The advocate commissioner was sent to see the physical features of the property. The advocate commissioner had visited the property and given his finding that the property is a vacant property. So nobody is in possession of the property while the advocate commissioner visits the same.

23. Under such circumstances, the plaintiff cannot establish before the court that they were in possession of the property from 1959 onwards and they had repurchased the property in 2022 and had instituted the suit in 2024 seeking for declaration. The plaintiff has not described in detail with regard to the right and ownership over the suit property by clearly showing the boundaries and schedule and extent of property in the plaint schedule and the trial court had appreciated the documents of the plaintiff and the oral evidence and was pleased



Scan the code using 'e Courts Services'
mobile application download from Play Store.

to dismiss the suit. This court finds no valid reasons to set aside the well considered judgment.

24. With regard to the judgment cited by the learned counsel for the appellant that possession follows title with respect to vacant land, the same would not be applicable to the facts of the present case for the reason that the possession is also disputed by the defendant and the plaintiff having lost in the earlier litigation has subsequently purchased the property afresh in 2022 and has instituted the suit. Thereby the general principles of law that title follows possession would not be applicable in the present case. Moreover, the judgment relied upon by the appellant that the defendant cannot have two different stands in order to approbate and reprobate the plaintiff's case would not be applicable to the present case for the reason that the defendant had taken valid defence before the trial court that the plaintiff has not come forward with a clear case with respect to the extent and schedule of properties, thereby the same judgment would not be helpful to the plaintiff's case much.

25. This court finds that detailed analysis have been made by the trial court to reject the plaintiff's claim with respect to the claim with respect to declaration and title over the suit property and this court finds no reasons to set aside or modify the trial court judgment.



Scan the code using 'e Courts Services'
mobile application download from Play Store.

24

A.S. No.01/2026

In the result, the Appeal Suit in A.S. No.01/2026 is dismissed with cost throughout the proceedings confirming the order of dismissing the suit in O.S. No.90/2024 dated 18.11.2025 passed by the learned Subordinate Judge, Uthamapalayam.

Dictated to the Steno-Typist, taken by him in shorthand, transcribed and typed by him with the help of voice recorder, and Microsoft 365, corrected and pronounced by me, in the open court, this the 27th day of April - 2026.

**Principal District Judge,
Theni.**

Appellant side witness and documents :-

-Nil-

Respondent side witness and Documents:-

-Nil-

**Principal District Judge,
Theni.**

Copy to:-

The Subordinate Court, Uthamapalayam.

Principal District Court,
Theni
Copy of Judgment in
A.S. No.01/2026
Dated : 27.04.2026

27.04.2026

Principal District Judge, Theni.