



IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM, THENI DISTRICT.

Present: Thiru. C.SANKAR, B.A. M.L. PGDCFS.,

Additional District and Sessions Judge,

Periyakulam, Theni District.

Friday, the 10th day of July, 2026.

APPEAL SUIT No.36/2019

CNR.No.TNTH090002612019

- in -

ORIGINAL SUIT No.69/2017

-

1. V.P.Malaisamy
2. M. Jeyalakshmi

... Appellants/
4,5 Defendants

// Vs. //

1. Pitchaiyammal
2. Murugan
3. Muniyandi
4. Palpandi
5. Nagammal (Died)
6. Sevugapandi
7. Thangam
8. Muthupandi
9. Sevugaperumal (Died)
10. Pandiselvi
11. Petchiyammal

... 1to 11
Respondents/1 to
11 Plaintiffs



12. Jameelataj
13. Masutha Meera Jahib
14. Jarina Asarab
15. Lakshmi
16. Krishnaveni
17. Minor. Dharankumar
18. Minor. Tamilarasan
(Respondents 17 and 18 rep. By their Mother and Natural
Guardian 15th respondent)
Amended as per order in IA.No.5/2025 dated.05.03.2025

... 12 to 14
Respondents/
1 to 3 defendants

-

This Appeal is filed against the Judgment and Decree of the Subordinate Court, Periyakulam in OS.No.69/2017 dated 30.08.2019.

Parties in Lower Court:

1. Pitchaiyammal
2. Murugan
3. Muniyandi
4. Palpandi
5. Nagammal (Died)
6. Sevugapandi
7. Thangam
8. Muthupandi
9. Sevugaperumal (Died)
10. Pandiselvi
11. Petchiyammal

... 1 to 11
Plaintiffs

// Vs. //



1. Jameelataj
2. Masutha Meera Jahib
3. Jarina Asarab
4. V.P.Malaisamy
5. M. Jeyalakshmi

... Defendants

This Appeal came up for final hearing before me on 17.04.2026 in the presence of Mr. Aranmanaipandian, Learned Counsel for the appellants and Mr.K.Pandiyarajan, Learned Counsel for the R15 to R18 respondents and R1 to R14 respondents are remained exparte and upon hearing both side arguments and upon perusing the case records and having stood over for consideration till this day, this Court delivered the following...

JUDGMENT

The appellants/plaintiffs preferred this appeal under Order 41, Rule 1 r/w Section 96 CPC against the Judgment and Decree in OS.No.69/2017 dated 30.08.2019 on the file of the Subordinate Judges Court, Periyakulam.

2. The appellants are the defendants and the respondents are the plaintiffs in the Original Suit.

3. The averments made in the written-statement filed by the appellants/defendants are as follows:

Though the sale deed described 1 Acre, the Thirumulusamy Chettiyar purchased entire 3 Acre 43 cents. The Thirumulusamy Chettiyar and his heirs had



been enjoying the suit property for 45 years above mutating Patta in their name. The heirs of Thirumulusamy Chettiyar executed a power deed dated 21.03.1995 infavour of P.T.Thamos. The said power agent P.T.Thamos sold the 2 Acre land to Mary Abraham on 04.07.1995 under document No.819/95; he sold the 43 cents to Balagobalan, Kalpithan and Prayal under document No.866/95; he sold the 47 cent to Satyan Thorayil on 17.07.1995 under document No.869/95; he sold the 38 cent to Mohamud Ali under document No.870/95 and he sold the 7 cent to Radhakrishnan under document No.969/95. The purchaser all from the power agent P.T.Thamos executed the power deed to Pounraj whom executed the sale deed infavour of the 1 to 3 defendants. The Patta also mutated in the name of 1 to 3 defendants and they had executed power of Attorney infavour of the 4th defendant. The 4th defendant on the strength of power deed, executed the sale deed infavour of the 5th defendant. The 5th defendant has been enjoying the suit property by mutating Patta in her name and paying kist. It should be proved by the plaintiffs that the Alagiru and Thathan are the ancestral of the plaintiffs. Normally in the period of 1950, one name named to various persons. Taking advantage of similarity of the name, the plaintiffs have instituted the suit for purpose of grabbing money from the defendants. The date of death of Algiru, Thathan and Nallathampi and their death certificate are fabricated one. It is also denied that the plaintiffs had been enjoying the suit property. The 5th defendant and her predecessor dug bore-well and obtained electricity and planted Lemon and Drumstick trees. The plaintiffs have no connection to the suit property.

The averments made in the plaint of the respondents/plaintiffs as follows:

4. The suit property survey No. 1121 measuring 3 Acre 43 cents ancestrally belonged to Nallathambi son of Lakshmanan sambhan. Out of 3 Acre 43 cents, 1 Acre was sold to Thirumulusami chettiyar son of Thiruman chettiyar of Tamaraikulam, by the Nallathambi sambhan by virtue of sale deed dated



09.12.1950. The remaining 2 Acre 43 cents was in the possession and enjoyment of the Nallathambi sarubhan sowing rain fit crops. The Nallathambi sambhan sold the property to the Thirumulu chettiyar describing his minor sons viz., Alagiru and Thathan. After the demise of Nallathambi sambhan who died on 11.12.1991, his heirs viz., Alagiru, Thathan and Petchiammal inherited and enjoyed the property. The Alagiru and Thathan were expired. The 1 to 4 plaintiffs are the heirs of Alagiru sambhan. The 5 to 10 plaintiffs are the heirs of Thathan sambhan. After the demise of Alagiru and Thathan, their heirs and sister, the 11th plaintiff were enjoying the suit property. It came to known to the plaintiffs on 05.04.2017 that the defendants 1 to 3 colluding with 4th defendant fabricated deed of power of attorney in the name of 4th defendant and the 4th defendant executed the sale deed infavour of his wife, the 5th defendant on 15.06.2012. Since they are not parties to the documents, they ignored the same. Following the fabricated documents, the 5th defendant and her agent attempted to encroach and to fence the suit property on 25.12.2016 and though it was prevented, the 5th defendant trespassed into suit property and encroached it. Therefore the plaintiff caused legal notice to the defendants on 08.05.2017. The 4th and 5th defendant received the notice and had not sent reply. The 1 to 3 defendants returned the notice with endorsement of unclaimed.

5. On the plaintiffs side PW1 to PW3 examined and Ex.A1 to Ex.A13 marked. On the Defendants side DW1 and 2 examined and ExB1 to B10 marked.

6. After trial, the trial court decreed the suit by Judgment dated 30.08.2019 against which the defendants preferred this appeal.



Heard both sides.

7. **Point for consideration are:**

The following issues are settled for the appeal:

1. Is it true that the Thirumulusamy Chettiyar had purchased suit property by virtue of sale deed dated 09.12.1950?
2. Whether the Appellants are entitled to relief of recovery of possession? To what other relief, are the Appellants entitled?
3. Whether IA.No.64/22 and IA.No.8/25 petition to receive additional documents filed by appellants/plaintiffs can be allowed ?
4. Whether the appeal can be allowed or not?
5. To what other relief, are the Appellants entitled?

Point No.1

The appellant's are the defendants in the suit for the sake of convenience, the parties are referred to as per their ranking and status in the suit.

8. The learned counsel for the Appellant argued that,

that though the sale deed dated 09.12.1950 conveyed 1 Acre to the purchaser viz., Thirumulusamy Chettiyar, he purchased entire land in survey No.1121 that is 3 Acre 43 cents. The revenue records mutated in the name of Thirumulusamy Chettiyar covering 3 Acre 43 cents in survey No.1121. The Thirumulusamy Chettiyar and his heirs enjoyed the suit property and conveyed title to various person through their power agent viz., P.T. Thamos. The defendants 1 to 3 purchased including suit



property and they had executed power of attorney infavour of 4th defendant who executed the sale deed to his wife, the 5th defendant. The 5th defendant has been in possession and enjoyment of the suit property by mutating Patta in her name. The plaintiffs have failed to prove that they are the legal heirs of deceased Nallathambi sambhan. The death certificates (Ex.A4, A5 and A13) are not related to the person concerned. The Thirumulusamy Chettiyar and his legal representatives has continuously been enjoying the suit property for past 45 years without any interferences more than statutory period.

9. The learned counsel for the Respondent argued that,

The plaintiffs' ancestor sold the 1 Acre land in survey No.1121 to the Thirumulusamy Chettiyar on 29.12.1951 kept remaining 2 Acre 43 cents in his hand. The plaintiffs had been enjoying the suit property. The defendants 1 to 3 colluding with other defendants fabricated the sale deed including suit property. The plaintiffs have proved that they are the legal heirs of deceased Nallathambi sambhan. The Ex.A3 would go to show that out of 3 acre 43 cents, 1 acre land was conveyed to the Thirumulusamy Chettiyar. The defendants claiming rights under the Ex.A3 cannot claim more extent than Ex.A3.

10. On perusal of records,

The survey No.1121 consisting of 3 Acre 43 cents belonged to Nallathambi sambhan and in which he sold 1 Acre to the Thirumulusamy Chettiyar son of Thiruman



Chettiyar by virtue of registered sale deed dated 09.12.1950 under Ex.A3. Those facts were admitted by the defendant 4 and 5 in their written statement which stated as follows,

"சர்வே எண்.1121 ல் கட்டுப்பட்ட 3 ஏக்கர் 43 செண்டு புஞ்சை நிலத்தை இந்த பிரதிவாதிகளின் முன் பாத்தியஸ்தர்களான திருமன் செட்டியார் மகன் திருமுழுசாமி செட்டியார் 09.12.1950 ல் மேற்படி 3 ஏக்கர் 43 செண்ட் நிலத்தை முறையான பிரதிபலன் கொடுத்து பதிவு கிரையம் மூலம் கிரையம் பெற்றுவிட்டார். 09.12.1950 ல் ஏற்பட்ட கிரைய பத்திரத்தில் 1 ஏக்கர் என பதிவு செய்யப்பட்டு இருந்தாலும், திருமுழுசாமி செட்டியார் கிரையம் வாங்கியது 3 ஏக்கர் 43 செண்ட் முழுசொத்துமே கிரையம் பெற்று அவர் பெயருக்கு பட்டா மாறுதல் ஏற்பட்டு சட்டப்படியான காலத்திற்கு மேலாக சுமார் 45 ஆண்டுகள் தாவா சொத்தை அவரும் அவருக்கு பின் அவர் வாரிசுகளும் அனுபவித்து வந்தனர்."

11. Furthermore, the Ex.A3 document reveals that,

"... கிரையம் 1950ம் வருடம் டிசம்பர் மாதம் 29ம் தேதி தமிழ் விக்ருதி வருடம் மார்கழி மாதம் 14ம் தேதி பெரியகுளம் தாலுகா, மேல் மங்கலம் கிராமம் சிறு தாமரைக் குளத்தில் இருக்கும் வே. திருமன் செட்டியார் குமாரர், திருமுழுசாமி செட்டியார்க்கு மேற்படி தாலுகா தாமரைக்குளம் கிராமம் சேடப்பட்டியில் இருக்கும் தா.லட்சுமணன் சாம்பான் மகன் ஆதிதிராவிடர் விவசாயம் நல்ல தம்பி சாம்பான் தனக்காகவும், தன் மக்கள் மைனர்கள் சுமார் 8 வயதுள்ள அழகிரு 1, சுமார் 3 வயதுள்ள தாதன் 2, பேர்களுக்கும் Guardian ஆகவும், எழுதிக் கொடுத்த புஞ்சை நிலம் சுத்த கிரையப் பத்திரம் பிதுராஜ்ஜித பாத்தியமாய் என் பாகத்திற்கு கிடைத்து நான் அனுபவித்து வரும் அடியில் கண்ட சொத்தை நான் தங்களுக்கு நாளது தேதியில் ரூபாய்.50.00/-க்கு கிரையம் செய்து கொடுத்து மேற்படி, ரூபாய்.50.00/- ம் என் குடும்ப செலவுக்காகவும், சில்லரைக் கடன் தீர்க்கவும், நான் தங்களிடம் நாளது தேதியில் ரொக்கம் பெற்றுக்கொண்டபடியால் கிரைய சொத்தை இன்றுமுதல் தங்கள் இஷ்டம் போல் சர்வசுதந்திர பாத்தியமாய் ஆண்டனுபவித்து



கொள்வீர்களாகவும், கிரைய சொத்தைப் பொறுத்து வேறு வில்லங்கம் இல்லை என்று உறுதியாய் சொல்கிறேன். வில்லங்கம் ஏற்பட்டால் நானும் என் வாரிசுகளும் என் இதர ஸ்தாபர சங்கம சொத்துக்களும் பொறுப்பாக இருந்து தீர்த்துக் கொடுப்போம் ஆகவும், சொத்து விபரம் மதுரை மாவட்டம் பெரியகுளம் சப்டி தாமரைக்குளம் கிராமத்தில் என் பெயரால் 1087 நிர் பட்டா ஏற்பட்டு நான் அனுபவித்து வரும் புஞ்சை அயன் சர்வே 1121 நிர் ஏக்கர் 3 செண்ட் 43ல் வடபக்கம் ஏக்கர் 1 உள்ள புஞ்சை நிலத்திற்கு மால் என் கைவசம் உள்ள புஞ்சைக்கு வடக்கு பெருமாள் புஞ்சைக்கு தெற்கு நாராயணசாமி செட்டியார் புஞ்சைக்கு கிழக்கு நாச்சான் அம்பலம் புஞ்சைக்கு மேற்கு. இம்மாலில், மேற்படி ஏக்கர் 1ம் என்று தெரிவிக்கப்பட்டுள்ளது..."

12. Thus, only one acre of land in Survey No. 1121 was sold to the appellant's predecessor-in-title. Document Ex. A-7, filed by the plaintiff in the Trial court, indicates that prior to the UDR scheme, the *Chitta* and Patta (Patta No. 1807) stood in the names of three individuals: Nallathambi, Thiruman Chettiar, and Parvathi Ammal. It was only after the UDR process that the entry for Survey No. 1121 was altered to Patta No. 3690.

13. It is no doubt that the Ex.A3 conveyed 1 Acre land in survey No.1121 to the Thirumulusamy Chettiyar. When the appellants claiming the suit property under Ex.A3, they should entitle what extent conveyed to the Thirumulusamy Chettiyar nothing but more and they should not go beyond the extent described in Ex.A3. Normally it should be presumed that the person who entitled to property which conveyed.

14. The appellants have claimed that though the Thirumulusamy Chettiyar purchased 1 Acre land, he had enjoyed entire property in survey No.1121 for 45 years by



mutating Patta in his name. But they have not produced any document to show that the Thirumulusamy Chettiyar and his heirs had enjoyed the entire property in survey No.1121. Therefore it could be understood from the Ex.A3 that the Thirumulusamy Chettiyar had purchased 1 Acre land in survey No.1121 as described in Ex.A3 and enjoyed the same. Therefore the heirs of Thirumulusamy Chettiyar have no right to sell the property more than they entitled to. The appellants 4 and 5 assailed the case of plaintiffs that the plaintiffs are not the legal heirs of deceased Nallathambi sambhan and that the Ex.A5 the death certificate described name of Alagan not Alagiru and that taking advantage of the similarity of name, the plaintiffs have claimed the suit property. The Ex.A4 is the death certificate of Nallathambi sambhan who died on 11.12.1991. The Ex.A5 is the death certificate of Alagan who died on 05.06.1999. The Ex.A13 is the death certificate of Thathan who died on 11.10.2006. The Ex.A5 and A13 would go to show that the father of the demised persons are Nallathambi. On perusal of the Ex.A12, it could be understood that the sons of Nallathambi viz., Alagan and Thathan sold the few other property describing their minor children, the plaintiffs. The Ex.A5, A13 and A12 would go to show that the plaintiffs/respondents are the legal heirs of deceased. Therefore the defense taken by the appellant's/ defendants have certainly no merits. Having regard to the fact that the appellants have failed to prove that their predecessor-in-title had acquired entire land in survey No.1121 and that the plaintiffs/respondents are not the legal heirs of deceased Nallathambi, whereas the plaintiffs/respondents have established that they are legal heirs of deceased Nallathambi and entitled to suit property, this court is of view that the Thirumulusamy Chettiyar had purchased 1 Acre land in survey No.1121 and the remaining 2 Acre 43 cents are entitled to plaintiffs/respondents and issue No.1 is answered accordingly.



Issue No.2

15. Since the issue No.1 decided infavour of the respondent and arrived at conclusion that the respondents are entitled to suit property and as such they are entitled to relief of declaration and recovery of possession as prayed for and issue No.2 is answered accordingly.

Issue No.3

16. This Court determines that the documents filed along with Interlocutory Applications No. 64/22 and IA.No.8/25 by the Appellants are documents that came into existence subsequent to Ex.A3. Given that, according to Ex.A3, the Appellants' predecessors-in-title held rights to only one acre of land in Survey No. 1121 and did not hold rights to the entire property comprised in Survey No. 1121 the documents filed by the Appellants with IA No. 64/22 and IA.No.8/25 cannot be considered relevant to the suit property in any manner and no pleadings in the written-statement regarding the additional documents and the documents.

Issue No.5

Issue No. 1 and 2 are answered against to the appellant's/defendants. Hence, no other relief was entitled by the appellant's/defendants. Hence this issue no.5 is answered accordingly.

Issue No.4

In the above discussion the appeal is dismissed without costs. Hence this point No.4 is answered accordingly.



In the result, the Appeal is dismissed without costs.

Dictated by me, directly typed by Steno-Typist into computer, corrected and pronounced by me in the open Court, this the 10th day of July 2026.

**Additional District and Sessions Judge,
Periyakulam.**

**Additional District &
Sessions Court,
Periyakulam, Theni
District.
AS.No.36/2019
Fair/Draft :
Judgment.
Dated :10.07.2026**