



**IN THE COURT OF DISTRICT MUNSIF
BODINAYAKANUR.**

Present : Thiru.A.Mohamed Hashim, B.A.,B.L.,
District Munsif, Bodinayakanur.

Thursday, the 16th day of July 2026.

O.S.No.94/2024

CNR No.TNTH120001332024

1.S.Vairavan

2.S.Nagaraj

3.M.Eswaran

.... Plaintiffs

-Vs -

V.Indian

.... Defendant

This suit was taken on file on 21.08.2024 and was coming on 29.06.2026 before me for final hearing, in the presence of Mr.M.Malleeswaran, Learned Advocate for the Plaintiffs, and presence of Mr.P.Saravanan, Learned Advocate for the Defendant. Upon perusing the case records and having stood over for consideration till this day, this court hereby delivered the following.

JUDGMENT

1. The suit property is a pathway situated in Survey No.71/5A1A, providing



access to the house situated in Survey No.71/4 and the lands comprised in Survey No.68/4 of Dombuchery Village and the same is within the territorial jurisdiction of this Court.

2. The plaintiffs have filed the present suit seeking the relief of permanent injunction restraining the defendant from interfering in the enjoyment of the plaintiffs over the suit pathway.

3. The case of the plaintiffs in nutshell:-

i) The property comprised in Survey No.71/4 originally belonged to Sakanadevar. The said Sakanadevar executed a registered settlement deed dated 04.12.2019 in favour of the 1st plaintiff in respect of a portion of the said survey number. On the very same day, he executed another registered settlement deed in favour of the 3rd plaintiff in respect of another portion of the same survey number. Thereafter, the 2nd plaintiff purchased a portion of the property comprised in Survey No.71/4 from the sons of Sakanadevar under a registered sale deed dated 02.05.2022. Pursuant to the aforesaid documents, the plaintiffs have constructed their respective residential houses and are in possession and enjoyment of their respective portions.

ii) On the eastern side of the plaintiffs' properties lies a land belonging to



Pandidevar, Ramaiyadevar, Karupaiyadevar, Danushkodidevar, Velmurugan, Vanaraj and Palanisamy. The plaintiffs have been using the said land as a pathway to reach their respective properties comprised in Survey No.71/4. In recognition of such user, Velmurugan, S/o. Ramaiyadevar and Vanaraj, S/o. Subbaiyadevar executed a consent deed (Samathapathiram) dated 22.07.2024 acknowledging the plaintiffs' right to use the said pathway. Thereafter, the plaintiffs have continued to use the suit pathway with the consent of the owners of the property.

iii) The defendant has no manner of right over the suit pathway. However, with an intention to obstruct the plaintiffs from using the pathway, the defendant has been parking four-wheelers in the suit property and has threatened the plaintiffs not to use the same. Despite being informed that the plaintiffs are using the pathway with the consent of the true owners of the property, the defendant has continued to interfere with the plaintiffs' peaceful use and enjoyment of the suit pathway. Hence, the present suit has been filed seeking the relief of permanent injunction.

4. The case of the defendants in nutshell:-

i) All the averments contained in the plaint are denied as false. The acquisition of the respective properties by the plaintiffs under the registered documents is admitted. However, the description of the suit property is disputed.



The plaintiffs have neither furnished the measurements nor the extent of the suit property. They have also not mentioned its exact location. Even the four boundaries furnished in the plaint are stated to be incorrect. The alleged user of the suit property as a pathway is also denied.

ii) The alleged consent deed (Samathapathiram) dated 22.07.2024 is stated to be a forged and fabricated document brought into existence for the purpose of the suit. Velmurugan and Vanaraj, the executants of the said document have no manner of right or authority over the property to execute such a consent deed either in favour of the plaintiffs or any other person. The said document is inadmissible in evidence for want of proper stamp duty and registration. The properties comprised in Survey Nos.71/4 and 68/4 are situated far away from Survey No.71/5. The total extent of 3 acres and 77 cents in Survey No.71/5 have been divided among Pandidevar, Ramaiyadevar and Karupaiyadevar. The western portion measuring 1 acre and 26 cents have been allotted to Ramasamydevar, the north-eastern portion measuring 1 acre and 25 cents have been allotted to Pandidevar and the south-eastern portion measuring 1 acre and 26 cents have been allotted to Karupaiyadevar. Upon the death of Ramasamydevar, the western portion devolved upon his son Vairamuthu. Though certain portions were alienated by Vairamuthu, the remaining



extent is in the possession and enjoyment of the defendant. The well situated in Survey No.71/5A5 forms part of the western portion.

iii) The averment that Ramaiyadevar, Karupaiyadevar, Dhanushkodidevar, Velmurugan, Vanaraj and Palanisamy are the owners of the property lying adjacent to the plaintiffs' property is denied. Ramaiyadevar was allotted only the north-eastern portion. The portion originally allotted to Dhanushkodidevar is transferred to Palanisamy, Velmurugan and Vanaraj. Therefore, Velmurugan, Vanaraj and Palanisamy have no manner of right over the western portion in which the defendant claims title and possession and hence they have no authority to execute the alleged consent deed. The averments contained in paragraph No.5 of the plaint are denied. The plaintiffs have no cause of action to institute the present suit.

5. Upon perusal of the pleadings, this court framed the following issues on 06.06.2025: -

- i) Whether the Plaintiffs are having easementary right over the suit property ?
 - ii) Whether the Plaintiffs are entitled to the relief of permanent injunction as prayed for?
 - ii) To what other reliefs, the plaintiffs are entitled to?
6. To prove the case of the plaintiffs, the 1st plaintiff was examined as PW1



and Ex.A1 to A9 have been marked through him. Mr.Vanaraj was examined as PW2 and Ex.A10 has been marked through him. Mr.Velmurugan was examined as PW3 and Ex.A11 has been marked through him.

7. The defendant has not adduced any oral and documentary evidence.

8. Issue No: 1 & 2 -

i)As the above issues are inextricably connected, they are taken together for consideration.

ii) The learned counsel for the plaintiffs reiterated all the averments set out in the plaint and took this Court through the oral and documentary evidence adduced on the side of the plaintiffs. He would submit that the evidence of PW1 to PW3, coupled with the documentary evidence, clearly establishes the plaintiffs' case. He would further submit that though the defendant has filed a written statement, he has not stepped into the witness box to substantiate the same. Therefore, an adverse inference is liable to be drawn against the defendant.He would further submit that the description of the suit property is sufficient to identify the suit pathway and that the said pathway is the only means of access to the plaintiffs' properties. Hence, the plaintiffs are entitled to use the same as a way of easement by necessity. He would also submit that the defendant has failed to establish any right, title or interest over



the property comprised in Survey No.71/5A1A and therefore he has no right to interfere with the plaintiffs' peaceful use and enjoyment of the suit pathway. Hence, the suit is liable to be decreed as prayed for.

iii) *Per contra*, the learned counsel for the defendant reiterated all the averments set out in the written statement and would submit that the plaintiffs have miserably failed to establish their case. Therefore, the defendant was under no obligation to adduce any oral or documentary evidence. He would further submit that the plaintiffs have no manner of right over the property comprised in Survey No.71/5A1A and consequently cannot claim any easementary right over the suit property. He would further submit that the description of the suit property is vague, as the plaintiffs have neither furnished the exact extent nor the precise location of the alleged pathway. He would also submit that Vanaraj (PW2) and Velmurugan (PW3) have categorically admitted in their evidence that, as on the date of execution of the consent deed (Ex.A4), they had no manner of right over the suit property. He further submitted that PW2 and PW3 have also admitted that the defendant is the descendant of Ramasamydevar and therefore the plaintiffs cannot seek the relief of injunction against the true owner. In support of the said contention, reliance was placed upon the judgment of the Hon'ble Madras High



Court in *Rajaraman and another v. Subramaniyan [2015 (6) CTC 637]* to contend that in the absence of a clear description of the suit property and the exact portion over which the easementary right is claimed, the relief of permanent injunction cannot be granted.

iv) This court carefully considered the rival submissions and perused the materials available on records.

v) On perusal of the materials available on record, it is seen that the 2nd plaintiff purchased an extent of 4.75 cents in Survey No.71/4 and 1 cent in old Survey No.747 under the registered sale deed (Ex.A1) dated 02.05.2022. The eastern and southern boundaries are shown as the lands of V.Kaliraj, the western boundary as common pathway and the northern boundary as the land of Eswaran. The 3rd plaintiff claims title under the settlement deed (Ex.A2) dated 04.12.2019 whereby an extent of 10.25 cents in Survey No.71/4 was settled in her favour. The eastern boundary is described as the land of Kaliraj, the western boundary as the lands of Vivekanandan and Kamatchiammal, the northern boundary as the land gifted to Paramasivam and the southern boundary as the land gifted to Vairavan and Paramasivam. Likewise, the 1st plaintiff claims title under the settlement deed (Ex.A9) dated 04.12.2019 executed by Sakanadevar. The northern boundary therein



is shown as a well. The plaintiffs would claim that the well referred to in Ex.A9 is situated in Survey No.71/5A1A and that the only access to their respective properties is through the pathway running adjacent to the said well.

vi) The plaintiffs do not claim any right of ownership over the property comprised in Survey No.71/5A1A. The entire claim is founded upon an alleged right to use the said property as a pathway. A careful reading of the plaint shows that the plaintiffs claim such right solely on the strength of the consent alleged to have been orally given by the owners of Survey No.71/5A1A and the consent deed (Ex.A4) alleged to have been executed by Vanaraj (PW2) and Velmurugan (PW3) acknowledging the easementary rights of the plaintiffs. Therefore, the nature of the right asserted by the plaintiffs is one of easement by grant and not by easement of necessity or easement by prescription. The burden is entirely upon the plaintiffs to establish the grant and the extent of such right.

vii) The plaintiffs claim that they are using the suit pathway with the permission of the owners of Survey No.71/5A1A and that Vanaraj (PW2) and Velmurugan (PW3) executed the consent deed (Ex.A4) dated 22.07.2024 acknowledging such pathway right. The above contention cannot be accepted. The patta (Ex.A3) relating to Survey No.71/5A1A stands jointly in the names of



Pandidevar, Ramaiyadevar, Karupaiyadevar, Danushkodidevar, Velmurugan, Vanaraj and Palanisamy. Thus, even according to the plaintiffs' own documents, Survey No.71/5A1A is jointly owned by several persons. When the plaintiffs claim an easementary right over the entire survey field, they are expected to establish that the persons who allegedly granted such right were competent to do so. More importantly, all the owners of the alleged servient heritage are necessary parties to adjudicate the existence and enforceability of such right.

viii) Vanaraj (PW2) has categorically admitted during cross-examination that he had purchased only 1½ cents from Karupaiyadevar and that he had constructed his residential house in the said extent. He has further admitted that he has no right over any property other than the said 1½ cents. Likewise, Velmurugan (PW3) has admitted that he purchased only 3 cents from Karupaiyadevar and has constructed his house therein. He has also admitted that he has no right over the remaining portions of Survey No.71/5A1A. These admissions completely belie the recitals contained in Ex.A4. Once PW2 and PW3 themselves admit that they have no right beyond their respective extents, they could not have validly granted any pathway right over the remaining portions of Survey No.71/5A1A. Therefore Ex.A4 does not create or recognise any enforceable right in favour of the plaintiffs.



ix) Velmurugan (PW3) has admitted that the well situated in Survey No.71/5A1A originally fell to the share of Ramaiyadevar and that the defendant is the grandson of Ramaiyadevar through his son Vairamuthu. Thus, the evidence of the plaintiffs themselves probabilises the defence that PW2 and PW3 were not competent to deal with the western portion over which the plaintiffs now claim a right of pathway.

x) Apart from the failure to establish the grant, the plaint itself suffers from a fundamental defect. The suit schedule merely mentions Survey No.71/5A1A without identifying the precise strip of land over which the easementary right is claimed. No length, breadth, width or measurements of the alleged pathway have been furnished. The point from which the pathway commences and the point where it terminates have not been pleaded. No rough sketch or plan has been filed to identify the alleged pathway. In a suit based upon easement, the identity of the servient tenement and the exact course of the pathway constitute the very foundation of the cause of action. In the absence of a definite description, any decree passed by the Court would become incapable of execution.

xi) The Hon'ble Madras High Court in ***Rajaraman and another v. Subramaniyan [(2015) 6 CTC 637]*** has categorically held that a person claiming an



easementary right must precisely describe the property over which such right is claimed and that a decree cannot be granted when the plaint fails to identify the exact portion constituting the alleged pathway. The Hon'ble High Court has further held that all persons interested in the alleged servient tenement are necessary parties and that the Court cannot grant a decree by leaving the course of the easement to be determined subsequently.

xii) The principles laid down in the above judgment squarely apply to the facts of the present case. The plaintiffs have neither established the competence of the executants of Ex.A4 to grant any easementary right nor identified with certainty the exact pathway over which such right is claimed. The pleadings are conspicuously silent regarding the dimensions and course of the alleged pathway. The evidence adduced on the side of the plaintiffs also demolishes the very basis of Ex.A4.

xiii) Therefore, this Court is of the view that the plaintiffs have failed to establish the grant of any easementary right over Survey No.71/5A1A. They have further failed to identify the alleged pathway with the certainty and precision as required in law. In the absence of proof of the easementary right and in the absence of a definite description of the suit pathway, the plaintiffs are not entitled to the



relief of permanent injunction. **Accordingly, Issue Nos.1 and 2 are answered against the plaintiffs.**

9. Issue No: 3 :-

Considering the nature of the dispute, the parties shall bear their respective cost. The plaintiffs are not entitled to any other reliefs. **Issue No:3 is answered accordingly.**

In the result, this suit is dismissed without costs.

Dictated to the steno typist, transcribed by her corrected, and pronounced by me in open Court, on the 16th day of July 2026.

District Munsif,
Bodinayakanur.

Plaintiffs' Side Witness : -

1. PW1 – Vairavan (1st Plaintiff)
2. PW2 – Vanaraj
3. PW3 - Velmurugan

Plaintiff Side Documents : -

1.	02.05.2022	Ex.A1	Copy of sale deed in the name of 2 nd plaintiff.	Certified Copy
2.	04.12.2019	Ex.A2	Copy of gift Settlement deed in the name of 3 rd plaintiff.	Certified Copy



3.	25.12.2012	Ex.A3	Copy of Patta	Online Copy
4.	22.07.2024	Ex.A4	Consent deed executed by Velmurugan and Vanaraj in favour of plaintiffs.	Original
5.	-	Ex.A5	House Tax Receipts (Nos.3) in the name of 2 nd plaintiff.	Original
6.	02.03.2020	Ex.A6	House Receipt in the name of 2 nd plaintiff.	Original
7.	03.07.2020	Ex.A7	Water Tax Receipt in the name of 2 nd plaintiff.	Original
8.	03.07.2020	Ex.A8	Water tax receipt in the name of the 2 nd plaintiff.	Original
9.	04.12.2019	Ex.A9	Copy of gift settlement deed in the name of 1 st plaintiff.	Certified Copy
10.	-	Ex.A10	Copy of Aadhar Card of Vanaraj	Xerox (compared with Original)
11.	-	Ex.A11	Copy of Aadhar Card of Velmurugan	Xerox (compared with Original)

Defendants' side Witness and Documents: - Nil

District Munsif,
Bodinayakanur.

OS No.94/2024
Fair Judgment
Dated: 16.07.2026