

**IN THE COURT OF THE DISTRICT MUNSIF AT TIRUTTANI**

**Present : Tmt. G. PRIYA, B.A., M.L.,**

District Munsif (FAC)

Tiruttani

Friday, the 26<sup>th</sup> day of April 2024.

**O.S.No. 60 of 2021**

CNR No. TNTR210000702021

...

P. Ramamurthy

...Plaintiff

//Versus//

P. Madavaiah Naidu

...Defendant

This suit is coming today for final hearing before me in the presence of Mr. C.A. Natarajan, Counsel for Plaintiff and Mr. V.S. Velayudham, Counsel for Defendant and subsequently set exparte and upon perusing the case records and arguments and having stood over for consideration till this day and this Court delivered the following:-

**JUDGMENT**

The suit is filed for Granting a Permanent Injunction restraining the Defendant, his men, agents and servants from in any manner closing or interfering with the Plaintiff's peaceful possession and enjoyment of the suit 'B' schedule property of common way and for Costs.

**2. THE CASE OF THE PLAINTIFF IS AS FOLLOWS:**

2.1 It is observed that the land originally belonged to one Gengama Naidu and 3 others in extent of 0.05.0 hec (0.14 cent) in Dry S.No.177/12A in N.N. Kandigai Village. The Plaintiff and Defendant jointly purchased the land from them in Registered sale deed on 31.01.1994 for full valid consideration with specific boundaries.

2.2 The Plaintiff and the Defendant were orally divided the land and allotted half portion in western side to the Defendant and half portion in eastern side to the Plaintiff and after allotted common way with E to W 36 feet and N to S 12 feet to reach the Plaintiff site in 1996. In 1998, the Plaintiff constructed 4 shops in Southern side in his portion and terraced house in the Centre portion left a portico in Northern side. The common way had been used by the Plaintiff to his house and was the only way to him that there was no other way to the Plaintiff. A Schedule includes house portion with shops way portion and B Schedule includes way portion. The Plaintiff had been using the B Schedule way for more than 25 years. The Plaintiff had paid house tax and had service connection No.08345003273 to his House and shops. The Defendant had got sub-division as S.No.172/12A1 and the Plaintiff sub-divided as S.No.172/12A2 in 2003.

2.3 It is observed that the Defendant had unlawfully attempting to form compound wall and close the 'B' Schedule way from 04.07.2021 under instigation of his son-in-laws. The Plaintiff had objected his unlawful action and the Defendant had gave complaint in K.K. Chatram Police Station had summoned the Plaintiff and enquired and had advised to go to civil court of law. The Plaintiff had filed rough plan showing the A and B schedule and the Defendant property.

3. The Defendant appeared through his Counsel and then set exparte for not filing Written Statement.

4. To prove the claim, the Plaintiff examined himself as PW1 and had marked Ex.A1 to Ex.A7. One Mr. Lakshmi Prasad was examined as PW2. On closure of Plaintiff side evidence, the Court heard the arguments of the Plaintiff.

**5. POINT FOR DETERMINATION:**

Whether the Plaintiff is entitled for the relief of Permanent injunction as claimed for?

6. It is observed that the suit is filed for the relief of Permanent injunction. The suit property is originally belongs to One Gengamma Naidu and 3 others measuring to an extent of 14 cents in S.No.177/12A. The Plaintiff and Defendant had jointly purchased the property by a registered sale deed with specific boundaries dated 31.01.1994 same is marked as Ex.A7 the encumbrance certificate dated 28.08.2021 is marked as Ex.A6. The Plaintiff and Defendant had orally divided the Property and the Western side is allotted to the Defendant and the Eastern side is allotted to the Plaintiffs with a common way measuring East to West 36 Feet and North to South 12 Feet. The Plaintiff had constructed 4 shops in Southern side of his portion and a terraced house in the center portion with portico in Northern side. The A schedule property is the house with shop way portion and the B Schedule is the passage portion. The computer patta No.1561 in the name of the Plaintiff is marked as Ex.A1. The house tax receipt dated 27.08.2021 is marked as Ex.A2. The electricity consumption receipt in the name of Plaintiff is marked as Ex.A3 which proves the possession and enjoyment of the Plaintiff over the suit schedule mentioned property. The FMB copy marked as Ex.A4 and the rough plan of the suit property marked as Ex.A5 proves the availability of the Passage in the suit property.

Upon above observations it is concluded that the plaintiff has proved his possession and enjoyment over the suit property and also the availability of the passage for his ingress and egress in the suit property. The Defendant have been set exparte hence adverse inference is taken against the Defendant. It is observed that the Defendant is trying to construct compound wall close to

the B Schedule property way in use by the Plaintiff herein. The cause of action is proved by the Plaintiff by substantive evidence.

Upon above observations, it is hereby concluded that the Plaintiff by oral and documentary evidence has proved his possession and enjoyment over the suit property and also the cause of action for the suit. It is hereby concluded that the Plaintiff is entitled for the relief of Permanent injunction as claimed. In the result the suit is decreed with cost.

Dictated to Typist, and computerized by her directly, corrected and pronounced by me in Open Court, this the 26<sup>th</sup> day of April 2024.

Sd- G. Priya  
District Munsif (FAC)  
Tiruttani

**LIST OF PLAINTIFF SIDE WITNESSES:**

PW1	P. Ramamoorthy
PW2	Lakshmi Prasad

**LIST OF PLAINTIFF SIDE DOCUMENTS:**

Ex.A1	08.07.2021	Computer Patta No.1561 in the name of Plaintiff
Ex.A2	27.08.2021	Original House tax receipt in the name of Plaintiff
Ex.A3	11.03.2021	Electricity consumption receipt in the name of Plaintiff (Online copy)
Ex.A4	--	FMB copy in respect of suit property
Ex.A5	--	Rough Plan of the suit property
Ex.A6	28.08.2021	Encumbrance Certificate (Online copy)
Ex.A7	31.01.1994	Registered sale deed executed by P. Indrasenan and 3 others in favour of the Plaintiff and the Defendant.

**LIST OF DEFENDANTS SIDE WITNESSES AND DOCUMENTS: NIL**

Sd- G. Priya  
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