

IN THE COURT OF THE DISTRICT MUNSIF AT AMBATTUR.
PRESENT: TMT.J.MADHUMITHA, B.A.B.L(HONS.), L.L.M.,
DISTRICT MUNSIF, AMBATTUR.

Tuesday, the 30th day of June 2026.

ORIGINAL SUIT NO. 83 OF 2005
CNR.No.TNTR22 - 000030 - 2005

Thenmozhi

.....Plaintiff

Vs

1. E.Venkatesan(Died)

2. Gunasekaran

3. Tmt.Vijayalakshmi

(2nd & 3rd Defendants are impleaded as per order in I.A. No.1251 of 2013 dated 23.10.2013)

.....Defendants

ORIGINAL SUIT NO. 424 OF 2006
CNR.No.TNTR22 - 000011 - 2006

1. Mr.Gunasekaran

2. Tmt.Vijayalakshmi

.....Plaintiffs

Vs

Tmt.Thenmozhi

.....Defendant

ORIGINAL SUIT NO. 83 OF 2005

This suit having come on 29.06.2026 before me for final hearing in the presence of Shri.N.Biswanath, learned counsel for the Plaintiff, 1st Defendant died, Shri.S.N.Ravikumar, learned counsel for the 2nd and 3rd Defendants, upon hearing the

arguments made by the learned counsel for the plaintiff and the defendant, written arguments filed by the learned counsel for the Plaintiff and the defendants and perusal of the records, this suit having stood over for consideration till this day, this Court delivers the following:

ORIGINAL SUIT NO. 424 OF 2006

This suit having come on 29.06.2026 before me for final hearing in the presence of Shri.S.N.Ravikumar, learned counsels for the Plaintiffs, Shri.N.Biswanath, learned counsel for the Defendant, upon hearing the arguments made by the learned counsel for the plaintiff and the defendant, written arguments filed by the learned counsel for the Plaintiffs and the defendants and perusal of the records, this suit having stood over for consideration till this day, this Court delivers the following:

COMMON JUDGMENT

1. **O.S NO.83/2005:** This suit is filed by the plaintiff seeking for a permanent injunction restraining the Defendants her men, agents, servants, relatives or anyone claiming through her or others from interfering with the peaceful possession and enjoyment of the suit property by the plaintiff.
2. **O.S NO.424/2006:** This suit is filed by the plaintiff seeking for permanent injunction restraining the defendants their men and agents or any others on their behalf from interfering with the plaintiffs peaceful possession and enjoyment of the

schedule mentioned property and for a mandatory direction, directing the defendant and her men, agent, heirs, claimant anybody claiming under the defendant or in the name of defendant to remove the encroachment made in the suit property by putting up small superstructure with asbestos roof" (**Amended and inserted as per order passed in I.A. No.857/2017 dated 28.11.2017**) and direct the defendant to pay the cost of the suit.

CONCISE STATEMENT OF THE PLAINT FILED BY THE PLAINTIFF IN O.S. NO.83/2005:

3. The Plaintiff submits that the plaintiff obtained the property described in Schedule A by a Settlement Deed dated 11.10.1993 registered as D.No.4246 of 1993 of SRO Annanagar and the schedule B property was purchased by the plaintiff from the wife of the defendant by a sale deed dated 15.11.1991 and the Plaintiff is in possession and enjoyment of the scheduled properties and the documents filed herewith will confirm the ownership and possession of the suit property. The plaintiff craves leave of this Hon'ble Court to read the other documents as part and parcel of this plaint. The plaintiff is in possession of the suit property and this is confirmed by the documents filed along with the suit. The plaintiff submits that the defendant is the husband of the vendor of the schedule B property to the plaintiff and he is attempting to trespass into the suit property without any legal right and having sold the property once, the defendant cannot have any right in the same and the defendant had signed as witness in the sale deed.

4. That the schedule A and B properties are adjacent properties and the plaintiff had constructed a house and living thereon and on 19.02.2005 the defendant attempted to interfere with the possession of the suit property by the plaintiff which was foiled by the plaintiff with the help of neighbours and the defendant is a local and powerful man and he may again attempt to trespass into the suit property and if the defendant succeeds trespassing into the suit property, the plaintiff will be put to great loss and hardship and hence the suit.

CONCISE STATEMENT OF THE WRITTEN STATEMENT FILED BY THE DEFENDANT IN O.S. NO.83/2005:

5. The defendant's mother did not issue any unregistered sale deed to the plaintiff on 15.11.1991 and that sale deed filed by the plaintiff is an unregistered forged documents. That the property "B" shown by the plaintiff in the property description was allotted to the first defendant only and there was no need for the first defendant, the late E.Venkatesan, to trespass and seize the property. The defendants deny that the first defendant, the late E.Venkatesan, attempted to trespass and seize the property "B" on 19.02.2005 because the defendants have full rights in it.

6. The defendants state that the plaintiff does not own the property "B". That the property "B" in the case was registered in their name by their father E.Venkatesan (Deceased) through a settlement deed. Defendants alleged that on 27.04.2005, they advertised the above land fraud and expropriation in a newspaper published in an attempt to expropriate the property of the plaintiffs using forged documents.

7. That on 24.08.2008, the plaintiff and her husband Subramani attempted to encroach on the "B" property belonging to the defendants and attempt to fence it off with the help of public. Interference with the defendants' right to and enjoyment of the B property belonging to the defendants. Since 24.08.2008, the plaintiff and her husband Subramani have been trying to usurp the B property through forged and unregistered documents, and the defendants state that they have filed a writ petition in the Court O.S.No.424/2006, which is pending. That the plaintiff and her husband have filed a writ petition in the original case of the above defendant O.S. No.424/2006.

8. That in the counter-suit filed by the plaintiff and the plaintiff's husband Subramani, the plaintiff has already filed a case O.S.No.83/2005 against the defendants' father, the late E.Venkatesan, in the Hon'ble Court and that on 27.08.2006, the court issued an order to advertise in the newspaper, and on 18.08.2006, the name of the defendant's father, the late E.Venkatesan, was called in the court on 15.09.2006 and a judgment was given unilaterally without the appearance of the opponent. The defendants state that there is no possibility of possession arising when no documents of title have been filed and therefore there is no basis to seek a permanent injunction on the "B" item property. Therefore, the defendants request the court to dismiss the case with costs, stating that the plaintiff has not filed a case for the 'B' item property, and that no circumstances have arisen in the case to grant the injunction sought by the plaintiff.

**CONCISE STATEMENT OF THE PLAINT FILED BY THE PLAINTIFF IN
O.S. NO.424/2006:**

9. The Plaintiff submit that the property to the extent of 2360 sq.ft of vacant land in survey No.775/4 as per survey of land record No 1628/2005 Korattur Village Ambattur Firka, Ambattur Taluk, Thiruvallur District more fully described in the suit schedule hereunder was belong to Mr.Venkatesan, the plaintiffs father. He executed a deed of settlement to and in favour of plaintiffs. From the date of conveyance the plaintiff's are the absolute, owners of the said property and they are in peaceful possession and enjoyment of the same.

10. That the defendant who claimed herself as owner of the property threatening the plaintiffs with dire consequences. Since the plaintiffs came to understood that some people claim interest over the suit property they have issued a public notice in daily news paper of 27.04.2006. All of a sudden on 24.08.2006 the defendants came near the property with intention to grab the property started to put up fencing around the suit property immediately at the intervention of the local people the plaintiffs succeeded. The plaintiffs further submit that all of a sudden again on 8th day of October the defendants again attempted to trespass into the suit property hence the plaintiffs lodged a police complaint the inspector of police advised the plaintiffs to seek remedy at the court of law since the matter is civil in nature.

11. Taking advantage that the suit property is kept vacant, but compounded with grill gate for long time, the defendant suddenly put up a small portion of

superstructure in the month of June 2016 second week after removing the grill gate put up by the plaintiffs which already was in existence. The defendant herein put up the small structure with asbestos roof approximately an extent of 150 sq.ft as it is evident in the photograph filed herewith. In respect of the sudden encroachment made by the defendant comes to my knowledge after 2 months of its construction and immediately went to T1 Police Station, Ambattur and orally informed about the respondent illegal construction and also about the removal of grill gate when the Plaintiff came out from the police station, the defendant herein brought his men with unknown rowdy elements who are waited outside the police station, where itself plaintiff was put under threat by the influenced rowdy elements at the inducement of the defendant. The defendant illegally using electricity from her house to the encroached portion against which now the plaintiff made his complaint to the electricity board and as well to commissioner of police. **(Amended and inserted as per order passed in I.A. No.857/2017 dated 28.11.2017)** Therefore the plaintiff has no other option except to approach this Hon'ble Court for permanent injunction restraining the defendants from interfering in the peaceful possession and enjoyment of the suit property and for mandatory injunction.

CONCISE STATEMENT OF THE WRITTEN STATEMENT FILED BY THE DEFENDANT IN O.S. NO.424/2006:

12. This defendant denies all the allegations contained in the plaint filed for interim injunction and puts the plaintiff to the strict proof the same. The instant suit is not maintainable both in law and on facts and the same is liable to be dismissed in

limine with exemplary costs. That the above suit is filed for permanent injunction that the plaintiff's possession should not be disturbed cannot be maintained at this stage. The defendant submits that the ownership of the suit property by the plaintiffs cannot be established at all as the father of the plaintiffs have no right or possession in the suit property. The defendant had no right or possession in the suit property.

13. The defendant had already filed O.S.No.83 of 2005 against the father of the plaintiffs and obtained a decree dated 15.09.2006 against the father of the plaintiffs Venkatesan and as such the document executed cannot be given any effect by this Hon'ble Court. There is already a decree that Venkatesan or his relatives or anyone claiming through him and when that decree is in force, the plaintiffs cannot again file the present suit and get orders and the plaintiff is not entitled to sustain the above suit at all. There is no cause of action and the injunction granted is liable to be vacated immediately.

14. That the suit property is shown schedule B and that was sold to the defendant by the mother of the plaintiffs and on the basis of that, the defendant herein had obtained the decree. The plaintiffs are not in possession of the suit property and there is no merit in this petition. The balance of convenience is in favour of the defendant and the plaintiffs had not made out a prima facie case. Hence prayed to dismiss the suit with exemplary costs.

**CONCISE STATEMENT OF THE ADDITIONAL WRITTEN STATEMENT
FILED BY THE DEFENDANT:**

15. The defendant at the outset denies that the suit property was kept vacant and further completely denies the allegation that the defendant suddenly put up a small portion of superstructure in the month of June 2016 second week. The defendant further denies the baseless allegation that the defendant put up a small structure with asbestos roof approximately an extent of 150 sq.ft and that defendant has made sudden encroachment. The defendant also submits that the allegation of the plaintiffs that the plaintiffs had given a complaint in Ambattur Police Station and that the defendant had threatened the plaintiff with rowdy elements are imaginary facts concocted out of thin air and has no merit whatsoever. The defendant further denies the averment that the defendant is illegally using electricity from her house to the encroached portion.

16. On the contrary the defendant avers that she has already filed a suit in February 2005 claiming to be in possession of the suit scheduled A and B properties and till date the defendant is in possession of the same and the plaintiffs had never challenged at any time regarding the same. That on 13.07.2017, when the PW1 was cross examined, the defendant was called to the Ambattur Police Station on a complaint given by the plaintiffs and on seeing the defendant and knowing about the pendency of the suits, the defendant was sent away after giving in writing regarding the suits. The defendant submits that it was the only occasion when the defendant had gone to the police station and the averment of the plaintiffs that during June 2016, the

plaintiffs gave police complaint and that the defendant used rowdy elements are blatant lie.

17. In any event, the defendant submits that the defendant has cleverly included prayer 'b' for mandatory direction and paid a meagre court fee of Rs.75.50/- under section 27(c) of TNCF Act. On the contrary, from the facts of the case, it is crystal clear that the plaintiffs under the guise of 'mandatory injunction' is actually praying for 'possession' and accordingly the plaintiffs ought to pay the court fees at the market value under Section 30 of TNCF act, failing which the suit is liable to be dismissed in limine. In addition the defendant submits that when praying for 'mandatory injunction' to 'remove the encroachment' it is well settled law that the plaintiffs are liable to include a separate description of property illustrating the alleged encroached portion and failing which a prayer for 'mandatory injunction' cannot be entertained.

18. Accordingly the plaintiffs firstly submit that the defendant has always been in possession of the suit property, which is evidence from the suit filed in 2005 and the allegations made by the plaintiffs to the contrary is completely false. Secondly, the plaintiffs have not paid the necessary court fees under the appropriate provision of the TNCF Act and the present suit cannot be proceeded further without payment of the requisite court fees. Finally, the plaintiffs have failed to provide any description of the alleged encroached portion of the suit property and accordingly a prayer for 'mandatory injunction' cannot be entertained. Hence prayed to dismiss the suit in limine with exemplary costs.

19. On perusal of the plaint and written statement filed by the defendants, this Court framed the following issues on 02.08.2014 in **O.S.83 of 2005** :

ISSUES in O.S.83 of 2005

- 1. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?*
- 2. To what other relief ?*

20. On perusal of the plaint and written statement filed by the defendants, this Court framed the following issues on 27.04.2007 in **O.S.424 of 2006** :

ISSUES in O.S.424 of 2006

- 1. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?*
- 2. To what other relief is the plaintiff entitled to?*

21. During perusal of records in O.S.424/2006, it is observed that no additional issue was framed after amendment dated 28.11.2017. Hence, the issues which were already framed on 27.04.2007 have been recasted as follows under Order 14 Rule 5 CPC. However, since the evidence, both orally and documentary, adduced on either side are suffice to decide such newly framed issues, no additional evidence are recorded.

- 1. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?*
- 2. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?*
- 3. To what other relief is the plaintiff entitled to?*

22. Evidences: Joint trial was admitted by both parties, and evidence has been recorded in O.S.83 of 2005. On the side of plaintiff, the Daughter of the Plaintiff is examined as PW1 herself and Ex.A1 to Ex.A5 documents were marked. The 2nd Defendant is examined as DW1 himself and Ex.B1 to B15 documents were marked.

Points for Determination and Discussion -

Answer to Issue No. 1 in O.S.83 of 2005 -

23. Both the suit have been filed for relief of Permanent injunction relief. It is observed that the parties are switching roles as Plaintiff and Defendant in both cases. The Plaintiff in O.S.83/2005, is the Defendant in O.S.424/2006. The Plaintiffs in O.S. 424/2006 are the Defendants in O.S.83/2005. As both the Plaintiffs in above cases are seeking the relief of permanent injunction with respect to the suit schedule property, which is the B schedule property in O.S.83/2005, they have agreed for joint trial as the original documents have been marked in the O.S. 83/2005 on both sides, which are relied upon for the same purpose in O.S. 424/2006 also. As the same documents are relied in both cases, the evidence of the parties and documents marked in O.S.83/2005 is considered accordingly for both cases. Henceforth the discussion and findings will be mentioned with respect to parties in O.S.83/2005, as evidence has been marked in that case on both sides.

24. It is important to look into the fact that whether on the date of filing of the plaint, the Plaintiff has been in lawful possession of suit property or not. On

examination of the documents and evidence present before this Court, Plaintiff has been examined as PW1, and has marked Ex.A1 to A5, to prove the possession over suit property. Whiles, the Defendant has marked Ex.B1 to B15 to prove the possession over suit B schedule property. It is the case of Plaintiff that, the plaintiff obtained the property described in Schedule A by a Settlement Deed dated 11.10.1995 registered as D.No.4246 of 1991 of SRO Annanagar and the schedule B property was purchased by the plaintiff from the wife of the defendant by a sale deed dated 15.11.1991 and the Plaintiff is in possession and enjoyment of the scheduled properties, and that on 19.02.2005 the defendant attempted to interfere with the possession of the suit property. There is no dispute with regard to possession of Plaintiff over suit A schedule property. The dispute has arise with regard to possession in suit B schedule property only.

25. Per contra, the Defendant denies the case of Plaintiff and contends that the defendant's mother did not issue any unregistered sale deed to the plaintiff on 15.11.1991 and that sale deed filed by the plaintiff is an unregistered forged documents, and that with regard to the suit B schedule property, Mr.Venkatesan, the Defendants father has executed a deed of settlement to and in favour of Defendants, by which the Defendants claim possession and rights over suit B schedule property. On perusal of Ex.A1 to A5, Ex.A2 is the title document for A schedule property, over which there is admittedly no dispute with regard to the Plaintiff's possession. Ex.A3 is the property tax receipt in name of Plaintiff for the year 2004, from which the area

of the enjoyment of land, as to whether it includes B schedule property or not cannot be ascertained. From the evidence of the PW1, it is admitted that the Plaintiff seeks possession and rights over B schedule property through Ex.A5 sale deed. On perusal of the Ex.A5 sale deed, it is an unregistered agreement for sale, for which the Plaintiff has paid stamp duty penalty upon impounding of the Document, during the stage of marking of documents.

26. In the present case it is observed that as on date of filing of the petition, the Ex.A5 Sale deed was unregistered and for the purpose of considering the sale deed into evidence, the unregistered document was impounded, and this Court has acted as the Collector of deficit stamp duty along with penalty, and then Ex.A5 has been marked on the side of Plaintiff. This Court refers to **2009 13 SCC 301, S.N.Mathur vs. Board of Revenue**, wherein the following principles relating to charging of stamp duty has been mentioned:-

- “(i) The object of the Stamp Act is generation of revenue. It is therefore a fiscal enactment and has to be interpreted accordingly.*
- (ii) Stamp duty is levied with reference to the instrument and not in regard to the transaction, unless otherwise specifically provided in the Act.*
- (iii) Stamp duty is determined with reference to the substance of the transaction as embodied in the instrument and not with reference to the title, caption or nomenclature of the instrument.*
- (iv) For classification of an instrument, that is, to determine whether an instrument comes within a particular description in an article in the Schedule to the Act, the instrument should be read and construed as a whole.*
- (v) Where an instrument falls under two or more descriptions in the Schedule to the Act, the instrument shall be chargeable with only one duty, that is the highest of the duties applicable to the different description. But where an instrument relates to several distinct matters, it shall be chargeable with the aggregate amount of duties to which separate instruments would be*

chargeable.”

27. This Court upon perusal of Section 33 and 35 of the Indian Stamp Act finds that there is no specific limitation period prescribed for impounding and collecting the deficit stamp duty. Hence the object of the Stamp Act is generation of revenue, and not in regard to the transaction, unless otherwise specifically provided in the Act. Hence, the benefit of collateral purpose available to the Plaintiff under Section 49 of the Indian Registration Act is a mixed question of fact and law. This court takes judicial note of the judgment in **Chilakuri Gangulappa Vs.Revenue Divisional Officer Madanpalle, (2001) 4 SCC 197** and finds the procedure provided for impounding insufficiently stamped documents. In the instant case, as the petition was pending for marking of documents and the Plaintiff has only sought permission to pay the deficit stamp duty for admitting the said document in evidence and agreed to pay the same.

28. On payment of deficit stamp duty as mandated under Section 49 of the Indian Registration Act, Ex.A5 may be accepted only subject to relevancy and proof as per the established procedure law, and Ex.A5 does not attain the value of registered agreement as prescribed under Section 4 of the act, by which the Plaintiff cannot claim title over the B schedule property in any manner. Even if it is considered for collateral purpose, it is the duty of the Plaintiff to prove the case of Plaintiff through substantial evidence before this Court. PW1 has deposed that there are no documents relating to Ex.A5 after its execution.

PW1 Cross examination

"வா.சா.ஆ 5 ஏற்படுத்திய 1991 காலத்தில் இருந்து பத்மாவதி இறந்த 2002 காலம் வரை இடையிட்ட 11 வருடகாலத்தில் வாதி கிரையஆவணம் ஏற்படுத்தி தருமாறு எடுத்த நடவடிக்கை சம்மந்தமாக ஆவணம் எதுவும் உள்ளதா என்றால் ஆவண ஆதாரம் எதுவும் இல்லை."

Hence no such evidence are submitted regarding the payment of balance sale consideration as averred by the Plaintiff to the Defendant's mother, during the lifetime of the Defendant's mother namely Padmavathy. Hence, the Plaintiff cannot claim title or possession through Ex.A5 sale deed.

29. Further, it is contended by the Plaintiff that the Defendant has admitted the possession of the Plaintiff in B schedule property during DW1 Cross examination.

On perusal of the evidence of DW1, it is deposed as follows,

DW1 Cross examination

"பி பட்டிகை சொத்திற்குள் எங்களால் சென்று வர முடியுமா என்றால் முடியாது எங்களுக்குரிய வழி இடத்தை மறைத்து வாதி மதில் சுவர் கட்டிக்கொண்டார். தற்பொழுது அ பட்டிகை சொத்தின் வழியாக தான் பி பட்டிகை சொத்திற்குள் செல்ல முடியும் என்றால் சரிதான்.

... பி பட்டிகை சொத்தில் உள்ள முள்வேலியை அகற்றி எப்பொழுது வாதி மதில் சுவர் கட்டினார் என்றால் 2015 ஆண்டு கட்டினார்."

But it is observed that such possession by constructing small structure in B schedule property was made by the Plaintiff in the year 2015, lis pendence, which cannot be claimed as lawful possession by Plaintiff. Further it is admitted that the Plaintiff has knowledge that patta for B schedule property is in name of Defendants

after filing of O.S.No.426/2006, in the year 2006 itself.

PW1 Cross examination

"அ.வ.எண்.424/2006 ல் இந்த பிரதிவாதி ஆவணமாக பட்டாவை தாக்கல் செய்துள்ளதால் பிரதிவாதி பெயரில் 2006 வருடத்தில் பட்டா உள்ள விவரம் எனக்கு தெரியும் என்றால் சரிதான்."

Howsoever, the Plaintiff has not resorted to amend the prayer relief for declaration, even after the Defendant has created cloud over the title by filing Ex.B2 settlement deed in name of the Defendants.

30. To understand, whether such a denial by filing of documents would be sufficient for proving there is cloud over title, this Court refers to the Hon'ble Supreme Court, reported in 2008 (6) 237, **Anathula Sudhakar V.P.Buchi Reddy (Dead) by LR.s. and others**, that the Court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to Plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case. Wherein, in the above Judgment, the general principles as to when a mere suit for permanent injunction will lie, and when it is necessary to file a suit for declaration and/or possession with injunction as a consequential relief, are well settled, as per which, it is held that,

"11.3. Where the plaintiff is in possession, but his title to the property is in dispute, or under a cloud, or where the defendant asserts title thereto and there is also a threat of dispossession from defendant, the plaintiff will have to sue for declaration of

title and the consequential relief of injunction. Where the title of plaintiff is under a cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will have to file a suit for declaration, possession and injunction.”

Hence, as per the above settled law, the Plaintiff ought to have filed a suit for declaration of title and the consequential relief of injunction, after the title of the sit B schedule property was clearly disputed with a registered Ex.B2 settlement deed.

31. As per the well established law, the Plaintiff has to firstly discharge his burden regarding the title, right and possession of the suit property. As already found above, there is a cloud over the title of the Plaintiff suit property. This court concludes that there is a clear cloud over the valid conveyance of title upon the plaintiff irrespective of the pleadings regarding construction of small structure with asbestos roof, which involves complicated question of fact and law and cannot be decided in this suit for bare injunction. This suit is thus bad for lack of seeking declaration of title, despite knowledge about the conveyance of title to Defendants through Ex.B2 settlement deed.

32. Apart from that there is no evidence submitted regarding the disturbance caused by the Defendants to Plaintiff on 19.02.2005, that the defendant attempted to interfere with the possession of the suit A Schedule or B Schedule property. As the Court has already held that the plaintiff had failed to seek for declaration of title, despite being aware of the dispute in title in suit B Schedule property through Ex.B2

settlement deed of the Defendants. Apart from that there is no evidence to show disturbance caused to the plaintiff with respect to suit property. Hence, this Court concludes that the Plaintiff had not discharged her burden of proof regarding the relief for permanent injunction. Hence the Issue No.1 in O.S.No.83/2005 is accordingly against the Plaintiff in O.S.No.83/2005.

Answer to Issue No. 1 and 2 in O.S.424 of 2006-

33. As already discussed above, it is inferred that it is the case of Defendants that they claim title over the B schedule property through Ex.B2 settlement deed given by Defendants Father Mr.Venkatesan in favour of Gunasekaran and Vijayalakshmi. It is inferred from the Ex.B2 settlement deed that, it is a registered document, and that it has been executed on 11.04.2005. It is contended by the Plaintiff to have been executed after filing of the O.S.No.83/2005. It is observed from the records that the O.S.No.83/2005 was taken on file on 18.03.2005, and it is inferred that the Ex.B2 settlement deed has been executed after filing of the suit, which is an act of pendency. Further the Ex.B6 Patta in name of the Defendants father for the property has been received after filing of O.S.83/2005.

34. This Court holds that Ex.B2 is a self serving document, and title cannot be arrived only based on the settlement deed. Hence, Ex.B2 settlement deed cannot be relied upon as the only document for showing that the Plaintiff has title for possession and enjoyment over the suit B schedule property at the date of filing of suit. It is observed that the Ex.B6 patta in name of Defendants father Venkatesan is

not document of title to the Suit B schedule Property S.No.775/4 as discussed in 2016 (1) ALT 394 Angalakurthy Venkata Narayanamma vs. Molakapalli Lakshamma and others that “A revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof both forward and backward can also be raised under Section 110 of the Evidence Act”

35. In the present case on hand, the Plaintiff has rebutted the presumption of the possession regarding the B schedule property as it is deposed by the DW1 on 30.01.2019 that the Plaintiff has constructed an asbestos room and provided power connection to it from A schedule property.

DW1 deposition

பி பட்டிகை சொத்திற்குள் எங்களால் சென்று வர முடியுமா என்றால் முடியாது எங்களுக்குரிய வழி இடத்தை மறைத்து வாதி மதில் சுவர் கட்டிக்கொண்டார். தற்பொழுது அ பட்டிகை சொத்தின் வழியாக தான் பி பட்டிகை சொத்திற்குள் செல்ல முடியும் என்றால் சரிதான். எங்களுடைய சொத்தின் 26 அடி நீளத்திலும் வாதி மதில் சுவர் கட்டியுள்ளார் என்றால் நாங்கள் போட்டிருந்த முள்வேலியை அப்புறப்படுத்தி மதில் சுவர் கட்டியுள்ளார். முள்வேலி எப்பொழுது அங்கு இருந்தது என்றால் 2005 ஆம் ஆண்டு நாங்கள் வழக்கு தாக்கல் செய்திருந்தபொழுது அங்கிருந்தது. பி பட்டிகை சொத்தில் உள்ள முள்வேலியை அகற்றி எப்பொழுது வாதி மதில் சுவர் கட்டினார் என்றால் 2015 ஆண்டு கட்டினார். அ பட்டிகை சொத்தில் உள்ள வீட்டிலிருந்த மின் இணைப்பு தாவா பி பட்டிகை சொத்தில் உள் வீட்டிற்கு எடுத்துச்செல்லப்படுகிறது என்றால் சரிதான். பி பட்டிகை சொத்தில் உள்ள வீடு ஆஸ்பேஸ்டால் சீட் வேயப்பட்டதாகும். அது சுமார் 10 க்கு 10 சதுர அடி இடம் கொண்ட வீடாகும்.

36. It is observed that the Defendant has amended the prayer relief in O.S.No.424/2006 by including mandatory injunction to remove the encroachment made in the suit property. Thus on having knowledge that the suit property has been encroached by the Plaintiff, the Defendant has not sought for a comprehensive efficacious relief of Declaration and recovery of possession. It is inferred that the relief of Declaration and Recovery of possession has been undervalued in guise of permanent injunction and mandatory injunction with respect to the suit property, as there is clear dispossession of the Defendant in suit B schedule property.

37. This Court refers to Kulasekarapattinam Panchayat vs Narayanavadivu on 14 July 2021, upholding the Judgment in Saravanan Pillai vs. A.S.Mariappan and others , reported in 2002 (1) MLJ 419, that,

“The plaintiff, who was not in possession, had in the suit claimed only declaratory relief along with mandatory injunction. Plaintiff being out of possession, the relief of recovery of possession was a further relief which ought to have been claimed by the plaintiff. The suit filed by the plaintiff for a mere declaration without relief of recovery of possession was clearly not maintainable and the trial court has rightly dismissed the suit. The High Court neither adverted to the above finding of the trial court nor has set aside the above reasoning given by the trial court for holding the suit as not maintainable.”

38. It is understood that when property rights or title are disputed, a mere suit for

mandatory injunction is generally not maintainable, and that suit ought to be filed for a comprehensive relief for declaration of title and recovery of possession, as a standalone injunction cannot legally settle unsettled property rights or dispossess a party. In the present case on hand the Defendant has neither sought for declaration nor for recovery of possession, considering the facts and circumstances of the case. Hence this Court will not render any finding upon the title of the parties over the suit B schedule property.

39. Hence this Court follows the ruling of the Hon'ble Supreme Court of India that attempting to disguise a possession dispute as a simple mandatory injunction is an abuse of process, and if there is a cloud over title, or if the defendant claims a conflicting right, one must seek both a declaration of their ownership and the recovery of the physical property, which is clearly not done in case of O.S.No.424/2006. Hence this Court has come to the conclusion that it is admitted in DW1 deposition that the Plaintiff has encroached the suit B schedule property and thus, holds that suit for permanent injunction is not maintainable without claiming the relief of recovery of possession. Hence, this Court concludes that the Defendants have not discharged their burden of proof regarding the relief for permanent injunction and mandatory injunction. **Hence the Issue No.1 and 2 in O.S.No.424/2006 are accordingly against the Plaintiffs in O.S.No.424/2006.**

Answer to Issue No.2 in O.S.No.83/2005-

40. Since this Court decided that the Plaintiff in O.S.No.83/2005 is not entitled to

the relief of permanent injunction, it is decided that the Plaintiff is not entitled for any other reliefs. Thus Issue No.2 is answered against the Plaintiff in O.S.No.83/2005.

Answer to Issue No.3 in O.S.No.424/2006-

41. Since this Court decided that the Plaintiffs in O.S.No.424/2006 are not entitled to the relief of permanent injunction and mandatory injunction, it is decided that the Plaintiffs are not entitled for any other reliefs. Thus Issue No.3 is answered against the Plaintiffs in O.S.No.424/2006.

Result in O.S.83/2005 -

42. In the result, this suit is dismissed. No order as to costs.

Result in O.S.424/2006 -

43. In the result, this suit is dismissed. No order as to costs.

Dictated to the steno-typist, typed by her directly in the desktop, corrected and pronounced by me in the open Court on this the 30th day of June 2026.

**DISTRICT MUNSIF,
AMBATTUR.**

PLAINTIFF SIDE WITNESSES:(Daughter of Defendant in O.S. No.424/2006)

PW1 Vetriselvi

PLAINTIFF SIDE EXHIBITS:

Exhibit A1 31.07.2016 Authorisation Letter - Original

Exhibit A2 11.10.1993 Settlement Deed - Original

Exhibit A3	05.08.2004	Property Tax Receipts - Original
Exhibit A4	14.08.2004	Letter from Bank - Original
Exhibit A5	15.11.1991	Sale Deed - Original

DEFENDANTS SIDE WITNESSES : (Defendant in O.S. No.83/2005)

DW1 Gunasekaran

DEFENDANTS SIDE EXHIBITS:

Exhibit B1	---	Photo - Original
Exhibit B2	11.04.2005	Settlement Deed - original
Exhibit B3	11.07.2017	Police Complaint - Original
Exhibit B4	13.07.2017	CSR No.1103/2017 - Original
Exhibit B5	16.08.2017	Encumbrance Certificate - Original
Exhibit B6	07.04.2005	TSLR Patta - Original
Exhibit B7	12.09.2006	Encumbrance Certificate - Original
Exhibit B8	18.07.2002	Death Certificate - Original
Exhibit B9	30.04.2009	Death Certificate - Original
Exhibit B10	25.04.2005	Legal heirship Certificate - Original
Exhibit B11	18.08.2009	Legal heirship Certificate - Original
Exhibit B12	16.10.2017	Legal Notice – Office Copy
Exhibit B13	--	Returned postal cover - Original
Exhibit B14	16.10.2017	Legal Notice – Office Copy
Exhibit B15	17.10.2017	Acknowledgment Card – Original

**DISTRICT MUNSIF,
AMBATTUR.**