

TNTS080000122020



IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, SANKARANKOVIL

**Present : Tmt. M. Alima, B.A., LL.M.,
Principal District Munsif,
Sankarankovil.**

Thursday, the 2nd day of July, 2026

O.S. No.15 of 2020

1. Mariyappa Thevar (Deceased)
2. Mariammal
3. Ayyanar
4. Thirumalaivadivu
5. Shanmugathai
6. Arumugam
7. Krishnaveni

..... Plaintiffs

(As per the order dated 09.03.2023 made in I.A. No.06 of 2022, the legal heirs of the deceased 1st Plaintiff were impleaded as Plaintiffs 2 to 7. Consequent to the order dated 15.03.2025 made in I.A. No.8 of 2024, the plaint was amended.)

/Vs/

Annathurai

..... Defendant

This suit came up for final hearing before this Court on 08.06.2026. The learned counsel Mr.S.Pushparaj appeared for the Plaintiffs. The learned counsel Mr.K.N.Parameswaran appeared for the Defendant. Since the Defendant failed to file a written statement, he was set exparte by this Court on 27.11.2025. Upon considering the oral evidence adduced on the side of the Plaintiffs, the documentary

evidence marked, the arguments advanced by the learned counsel for the Plaintiffs and the entire materials available on record, this Court delivers the following,

JUDGMENT

The suit has been instituted by the Plaintiffs under Order VII Rule 1 of the Code of Civil Procedure seeking:

(a) a declaration that the plaint schedule property exclusively belonged to the 1st Plaintiff;

(b) a consequential direction directing the Defendant to hand over vacant possession of the plaint schedule property to the 1st Plaintiff within such time as may be fixed by this Court, failing which the Plaintiffs may recover possession through due process of Court; and

(c) costs of the suit.

2) Brief Averments in the Amended Plaint:-

According to the Plaintiffs, the plaint schedule property exclusively belonged to the 1st Plaintiff, Mariyappa Thevar. A Natham House Site Patta bearing No.1418 had been issued in his favour by the Special Tahsildar, Sankarankovil, under the Natham Settlement Scheme. The 1st Plaintiff had been in continuous, peaceful and exclusive possession and enjoyment of the property for several years and had been regularly paying all taxes and public dues in respect thereof. The Defendant is the son of Ayyanar, who is the own brother of the 1st Plaintiff. Taking advantage of the close relationship, the Defendant represented that he had no residential house and requested permission to occupy the plaint schedule property. Out of compassion and considering the close blood relationship, the 1st Plaintiff permitted the Defendant to occupy the property orally with effect from 01.03.2011. The Defendant entered into possession only as a permissive occupant. Subsequently, taking undue advantage of such permission, he obtained transfer of the electricity service connection in his own

name without the knowledge or consent of the 1st Plaintiff and began asserting rights adverse to the interest of the 1st Plaintiff. Since the Defendant denied the title of the 1st Plaintiff, the latter cancelled the oral permission granted to the Defendant and caused a lawyer's notice dated 04.12.2019 requiring the defendant to vacate and hand over vacant possession of the property. Though the Defendant received the said notice, he sent a false and untenable reply denying the title of the 1st Plaintiff and failed to vacate the property. During the pendency of the suit, the 1st Plaintiff died on 21.09.2021. Thereafter, his legal heirs, namely Plaintiffs 2 to 7, were brought on record as his legal representatives. According to the Plaintiffs, the Defendant is attempting to unlawfully appropriate the plaint schedule property by taking advantage of the old age and subsequent death of the 1st Plaintiff. Hence, the present suit has been filed seeking the reliefs stated above.

3) Despite sufficient opportunities, the Defendant failed to file his written statement. Consequently, he was set ex parte by order dated 27.11.2025.

4) On the side of the Plaintiffs, the 4th Plaintiff, Thirumalaivadivu, was examined as P.W.1 and the 2nd Plaintiff, Mariammal, was examined as P.W.2. Through P.W.1, Exhibits A1 to A5 were marked.

5) No witness was examined on the side of the Defendant. No document was marked on behalf of the Defendant. Even after being set exparte, the Defendant did not appear before this Court.

6) Point for Determination

Whether the Plaintiffs are entitled to the relief of declaration and consequential recovery of possession as prayed for?

7) This Court has carefully considered the pleadings, the oral evidence of P.W.1 and P.W.2, Exhibits A1 to A5, and the submissions made by the learned counsel appearing for the Plaintiffs.

8) The present suit has been instituted for a declaration that the plaint schedule property exclusively belonged to the 1st Plaintiff and for consequential recovery of possession from the Defendant.

9) The consistent case of the Plaintiffs is that the Defendant was permitted to occupy the suit property only because of his close relationship with the 1st Plaintiff. According to them, such occupation was purely permissive in nature and did not confer any legal right, title or interest upon the Defendant. The Plaintiffs further contend that after the Defendant denied the title of the 1st Plaintiff, the permission was revoked by issuing a legal notice and that, despite such revocation, the Defendant continued in occupation without any legal authority.

10) In support of the above case, P.W.1 and P.W.2 have deposed on oath. Their evidence is in complete conformity with the averments contained in the plaint. Their testimonies are natural, consistent and free from material contradictions. There is absolutely no evidence on record to discredit or contradict their version.

11) Ex.A1 is the certified copy of the Natham House Site Patta No.1418 issued in the name of the 1st Plaintiff by the Special Tahsildar, Sankarankovil, under the Natham Settlement Scheme. A perusal of the said document shows that the revenue records stood in the name of the 1st Plaintiff in respect of the plaint schedule property.

12) It is true that a patta, by itself, is not a document of title. Nevertheless, it constitutes an important piece of evidence regarding possession and recognition of the holder's claim in the revenue records. In the present case, the patta standing in the name of the 1st Plaintiff has remained unchallenged. The Defendant has not produced any document to dispute or disprove the entries contained therein.

13) Ex.A2 house tax receipts standing in the name of the 1st Plaintiff. These receipts establish that the 1st Plaintiff had been continuously paying the house tax in respect of the suit property. Such uninterrupted payment of property tax is a relevant

circumstance corroborating the Plaintiffs' case regarding the 1st Plaintiff's possession and enjoyment of the property.

14) Ex.A3 is the office copy of the legal notice dated 04.12.2019 issued by the counsel for the 1st Plaintiff together with the original postal receipts. The said notice clearly revokes the oral permission granted to the Defendant and calls upon him to vacate the plaint schedule property and deliver vacant possession.

15) The issuance of Ex.A3 clearly establishes that the Defendant's occupation was treated by the 1st Plaintiff only as a permissive occupation and that such permission stood terminated prior to the institution of the suit.

16) Ex.A4 is the reply notice dated 11.12.2019 sent by the Defendant in his own handwriting to the counsel for the 1st Plaintiff along with the original postal cover. The said reply unmistakably establishes that the Defendant had received Ex.A3 notice and was fully aware of the revocation of the permission granted to him. Thus, there is no dispute regarding the due service of the legal notice upon the Defendant.

17) Significantly, the Defendant has neither filed a written statement nor chosen to contest the proceedings after being set ex parte. He has not cross-examined P.W.1 or P.W.2. No oral or documentary evidence has been produced on his behalf. Consequently, the oral testimony of P.W.1 and P.W.2 and the documentary evidence produced by the Plaintiffs remain unchallenged and unrebutted.

18) It is well settled that merely because a Defendant has been set ex parte, a decree cannot automatically follow. The Plaintiff must nevertheless establish his case by acceptable oral and documentary evidence. In the present case, the Plaintiffs have discharged that burden.

19) The evidence on record clearly establishes that the revenue records relating to the suit property stood in the name of the 1st Plaintiff; that he had been paying the house tax in respect of the property; that the Defendant was inducted into possession only with the permission of the 1st Plaintiff on account of the close family relationship

between them; and that such permission was subsequently revoked by issuance of the legal notice dated 04.12.2019.

20) After revocation of the permission, the Defendant had no legal right to continue in possession of the property. His continued occupation thereafter became unauthorized. The Defendant has not produced any document whatsoever to establish any independent title or lawful right over the plaint schedule property.

21) Further, during the pendency of the suit, the 1st Plaintiff, Mariyappa Thevar, died on 21.09.2021. Pursuant to the orders passed in I.A. No.06 of 2022, his legal representatives, namely Plaintiffs 2 to 7, were brought on record. Thereafter, by virtue of the order passed in I.A. No.8 of 2024, the plaint was suitably amended. Consequently, Plaintiffs 2 to 7 are entitled to prosecute the suit and receive the fruits of the decree as the legal representatives of the deceased 1st Plaintiff.

22) On an overall appreciation of the oral and documentary evidence available on record, this Court is satisfied that the Plaintiffs have proved, on the touchstone of preponderance of probabilities, that the plaint schedule property belonged to the 1st Plaintiff, that the Defendant was only a permissive occupant, that the permission was lawfully revoked and that the Defendant has thereafter remained in unauthorized occupation of the suit property. Accordingly, the point for determination is answered in favour of the Plaintiffs.

23) In the result,

The suit is decreed.

It is hereby declared that the plaint schedule property belonged exclusively to the deceased 1st Plaintiff, Mariyappa Thevar, as on the date of institution of the suit.

In view of the subsequent death of the 1st Plaintiff and the impleadment of Plaintiffs 2 to 7 as his legal representatives, the Defendant is directed to deliver

vacant possession of the plaint schedule property to Plaintiffs 2 to 7 within two (2) months from the date of this Judgment.

In default of such delivery, Plaintiffs 2 to 7 shall be at liberty to recover possession of the plaint schedule property through due process of law by executing this decree before the competent Court.

Considering the close relationship between the parties, each party shall bear his or her own costs.

This Judgment was dictated by me to the Stenographer, transcribed directly on the computer by her, duly corrected, signed and pronounced by me in open Court on this the 2nd day of July, 2026.

Principal District Munsif,
Sankarankovil.

I. Witnesses Examined on the Side of the Plaintiffs:-

1. P.W.1 – Thiru. Thirumalaivadivu (4th Plaintiff)
2. P.W.2 – Tmt. Mariammal (2nd Plaintiff)

II. Documents Marked on the Side of the Plaintiffs:-

Exhibit	Date	Description
Ex.A1	--	Certified copy of Natham House Site Patta No.1418 issued by the Special Tahsildar, Sankarankovil, under the Natham Settlement Scheme in favour of the 1 st Plaintiff.
Ex.A2	--	Original House Tax Receipts (7 Nos.) evidencing payment of house tax by the 1 st Plaintiff in respect of the plaint schedule property.

Exhibit	Date	Description
Ex.A3	04.12.2019	Office copy of the legal notice issued by the counsel for the 1 st Plaintiff to the Defendant together with the original postal receipts (2 Nos.).
Ex.A4	11.12.2019	Original reply notice sent by the Defendant in his own handwriting to the counsel for the 1 st Plaintiff along with the original postal cover.
Ex.A5	--	Two photographs of the plaint schedule property together with a Compact Disc (CD) (Original).

III. Witnesses Examined on the Side of the Defendant:- Nil

IV. Documents Marked on the Side of the Defendant:- Nil

Principal District Munsif,
Sankarankovil.

PDM Court, SNKL.
O.S.No.15 of 2020
Draft/Fair Judgment
Dated : 02.07.2026.