

IN THE COURT OF DISTRICT MUNSIF, SHENCOTTAI.

Present : **Thiru.K.N.Guru, B.A.B.L.,**
District Munsif, Shencottai.

Tuesday, the 7th day of April 2026

ORIGINAL SUIT No.19/2015

(CNR.No.TNTS11-000074-2015)

Pitchammal

.. Plaintiff

/Vs/

1. P. Karuppan Sambavar (Died)

2. K. Perumal

3. K. Muthaiah

4. K. Saraswathi

5. K. Thirumalaiselvi

.. Defendants

**(Amended as per orders in I.A. No. 213/2016 dated 02.02.2017 and
I.A. No. 1/2019 dated 21.02.2019)**

This suit came before me for final hearing on 06.04.2026 in the presence of Thiru.K.Sailapathy Sivanagnanam, Advocate for the Plaintiff and Thiru.C. Puvaneindran, Advocate for the 2nd Defendant. The 1st Defendant having died, and Defendants 3 and 4 having no representation, the suit against the 5th Defendant was dismissed. After hearing both sides and on perusal of records and having stood over for consideration till this date and this court delivers the following:

JUDGMENT

The Plaintiff has filed the present suit seeking a decree of declaration of title over the suit schedule property and a consequential permanent injunction restraining the Defendants, their men, and agents from interfering with the Plaintiff's peaceful possession and enjoyment of the same, together with the costs of the suit.

2. Plaintiff Case in a Nutshell:-

According to the Plaintiff, the suit schedule property originally belonged to his paternal aunt, Krishnammal, who had purchased the same under a Sale Deed dated 09.05.1977 and was in possession and enjoyment thereof. Subsequently, she conveyed the property to the Plaintiff for valid consideration under a registered Sale Deed dated 20.04.2006, pursuant to which the Plaintiff claims to have been in exclusive possession and enjoyment of the property and has constructed a house bearing Door No.3434/1 on the western portion of the property, while the eastern portion is kept vacant and used for storage. The property, measuring 25 feet East-West and 35 feet North-South, is stated to have been reflected in the Register of Ilathur Village in the name of the Plaintiff. It is further contended that the 1st Defendant is the Plaintiff's father and the 2nd Defendant is his brother and that, taking advantage of documents relating to the 1st Defendant's property situated further north beyond an east-west road, the Defendants created fraudulent documents with incorrect survey numbers and boundaries so as to lay claim over the vacant portion situated on the eastern side of the Plaintiff's house. In this regard, the Plaintiff had earlier instituted O.S.No.116 of 2012 before this Court against the Defendants

and one Murugan, to whom the Defendants had allegedly attempted to sell the said land, and by judgment and decree dated 04.07.2013 this Court declared the Plaintiff's title over the vacant site on the eastern side of the house and granted permanent injunction against the said Murugan. Despite the said decree, it is alleged that on 01.01.2015 the Defendants entered the suit property, abused the Plaintiff and attempted to forcibly evict him when he was making arrangements to whitewash the house for the Pongal festival, which led the Plaintiff to lodge a complaint before the Ilathur Police Station; however, the petition was closed by the police stating that the earlier decree related only to the vacant site and not the house, advising the Plaintiff to obtain a separate decree. The Plaintiff therefore alleges that since 25.01.2015 the Defendants, who have no manner of right, title or interest in the suit property, have been repeatedly threatening to dispossess him with police influence and muscle power and are making false claims of ownership. Hence, the Plaintiff has filed the present suit seeking a declaration of his title to the suit schedule property and for a permanent injunction restraining the Defendants, their men and agents from interfering with his peaceful possession and enjoyment of the same.

3. 1st and 2nd Defendants Case in a Nutshell:

The case of the 1st and 2nd Defendants, in brief, is that the 1st Defendant, who is the father of the Plaintiff, had already settled sufficient properties in favour of the Plaintiff and had expressly declined her subsequent demands for any further share, which led to the present suit being filed at the instigation of her husband with a

malafide intention to harass the Defendants. It is further contended that the Plaintiff had earlier instituted O.S. No. 116/2012 in respect of the very same property but failed to seek appropriate relief therein and obtained an ex parte decree, which the Defendants propose to challenge in accordance with law. The Defendants would also point out material contradictions in the Plaintiff's case, particularly with regard to the survey numbers, as the plaint refers to Survey No. 614/2, whereas the Sale Deed dated 09.05.1977 mentions Survey No. 2101 and the subsequent Sale Deed dated 20.04.2006 refers to Survey No. 3897, thereby rendering the Plaintiff's claim unreliable. According to the Defendants, the suit property is the self-acquired property of the 1st Defendant, purchased under a registered Sale Deed dated 02.02.1961 (Doc. No. 323/1961, SRO Shencottah), and thereafter validly settled in favour of the 2nd Defendant by a registered Settlement Deed dated 17.03.2009 (Doc. No. 560/2009), pursuant to which the 2nd Defendant has been in exclusive possession and enjoyment, having also put up construction therein. It is their further case that they have no manner of right over New Survey No. 614/2 as alleged by the Plaintiff and that the house bearing Door No. 3434/1 within the plaint boundaries belongs exclusively to the 2nd Defendant. Ultimately, it is contended that the present suit, being founded on the very same cause of action and property as the earlier suit in O.S. No. 116/2012, is barred by the principles of res judicata and is therefore liable to be dismissed in limine.

4. On the basis of the plaint, written statement and documents on record, the following issues were framed.

1. Whether the suit property is belongs to the plaintiff?
2. Whether the suit is barred under resjudicata?
3. Whether the plaintiff is entitled for the relief of declaration and injunction?
4. To what other reliefs?

5. In the present case, on the side of the plaintiff, PW1 was examined and Ex.A1 to Ex.A10 were marked. On the side of the defendants, DW1 & DW2 were examined and Ex.B1 was marked. The witness document was marked as Ex.X1.

6. Answer to Issues No.2:-

This court deems necessary to answer this issue first.

i) The Defendants contend that the present suit is barred under Section 11 CPC in view of the earlier decree in O.S. No.116/2012, whereas the Plaintiff would submit that the present suit relates to a larger extent.

ii) On perusal of Ex.A8 and Ex.A9, it is seen that the earlier suit was between the very same parties and was decided by a competent Court; however, the relief granted therein was confined only to the vacant eastern portion of the property. For the bar under res judicata to apply, the matter directly and substantially in issue in the present suit must have been directly and substantially in issue and finally decided in the former suit. In the present case, the entire property now claimed, including the house portion, was not the subject matter of adjudication in the earlier suit. Hence, the essential ingredients of Section 11 CPC are not fully satisfied.

iii) At the same time, though the Plaintiff had shown the entire extent of 2 cents even in the earlier suit, she had consciously restricted her relief to a part thereof. While such conduct may invite scrutiny under the principle of constructive res judicata, in the absence of complete identity of subject matter and adjudication, the strict bar under Section 11 CPC cannot be applied.

iv) Further, as regards Order II Rule 2 CPC, it is well settled that the bar applies only when the subsequent suit arises from the same cause of action and there is deliberate omission to claim the entire relief. In this regard, the Hon'ble Supreme Court in *Cuddalore Powergen Corporation Ltd. v. M/s. Chemplast Cuddalore Vinyls Limited and Another*, reported in **2025 LiveLaw (SC) 73**, has held that Order II Rule 2 CPC mandates inclusion of the entire claim arising from the same cause of action in one suit, but does not require inclusion of different causes of action merely because they arise out of the same transaction, and that the burden lies on the Defendant to establish identity of cause of action and deliberate omission.

v) In the present case, such identity of cause of action has not been conclusively established by the Defendants. Accordingly, this Court holds that the present suit is not barred by res judicata or under Order II Rule 2 CPC. The issue is answered accordingly.

7. Answer to Issues No.1 and 3:-

i) The above issues are interconnected; hence, they are taken up together for consideration.

ii) The Plaintiff is the daughter of the 1st Defendant and the sister of the 2nd Defendant. It is her case that the suit schedule property originally belonged to her paternal aunt, Krishnammal, who acquired the same under Ex.A1, and that the said Krishnammal subsequently conveyed the property to the Plaintiff under Ex.A2.

iii) In order to ascertain whether the suit schedule property has been properly described in compliance with Order VII Rule 3 of the Code of Civil Procedure and whether it is identifiable from the plaint schedule, this Court has carefully examined the pleadings and materials on record. As per the plaint schedule, the property is described as situated in Survey No. 389/7, measuring East–West 25 feet and North–South 35 feet, with a total extent of 871.2 square feet. Based on this description, the Plaintiff had filed an application for appointment of an Advocate Commissioner to inspect the suit property, and the learned Commissioner has submitted a report along with a plan.

iv) A perusal of the Commissioner’s report and plan reveals that the suit property has been depicted as ABCD and is located in Survey No. 389/7A2. The Commissioner has further noted that the patta in respect of the said property stands in the name of one Swarnalatha and that the property is a vacant site. It is also observed that the four boundaries mentioned in the Commissioner’s report do not tally with those stated in the plaint schedule. More importantly, the ownership of the property, as per the available records, does not stand in the name of the Plaintiff.

v) It is well settled that a suit schedule property must be identifiable either by its survey number or by its four boundaries. In the present case, the property described in the plaint is not capable of being clearly identified on either basis. Further, it is pertinent to note that the Plaintiff herself had sought appointment of a Commissioner to survey both the first and second schedule properties said to be situated in the same survey number, namely Survey No. 389/7. The Commissioner's report discloses that the second schedule property is situated in Survey No. 389/7B, and significantly, the house bearing Door No. 3-4-34/1, as mentioned in the plaint schedule, is also found to be located in Survey No. 389/7B. Despite this glaring inconsistency, the Plaintiff has not chosen to amend the plaint till date, thereby allowing the defect to persist unabated.

vi) It is further to be noted that the extent of the house itself exceeds the total extent of 2 cents claimed by the Plaintiff. A crucial and vital aspect of the matter is that the plaint is conspicuously silent as to the source of the specific measurements stated therein, namely East–West 25 feet and North–South 35 feet, totaling 871.2 square feet. A careful perusal of Ex.A1 and Ex.A2, which are the parent and title deeds relied upon by the Plaintiff, shows that they refer only to the total extent of the property as 2 cents and do not specify any such linear measurements. In such circumstances, the property could be in any configuration within the said extent, thereby creating serious ambiguity as to the identity and dimensions of the suit property. This lack of clarity strikes at the very root of the Plaintiff's case.

Vii) Further, during the pendency of the suit, the Plaintiff has obtained a patta in respect of the property in Survey No. 389/7B; however, no steps have been taken to amend the plaint so as to incorporate the said subsequent development. On a perusal of Ex.X1, it is evident that the measurements contained therein are wholly inconsistent with the plaint schedule. While the plaint describes the property as measuring East–West 25 feet and North–South 35 feet, Ex.X1 indicates the measurements as follows: Northern side – 16.40 feet, Southern side – 17.72 feet, Western side – 52.49 feet, and Eastern side – 50.52 feet, which are entirely at variance with the plaint description.

Viii) Further, the Plaintiff has gone to the extent of deposing that the house measures 10 feet East–West and 15 feet North–South. However, this assertion is demonstrably false and stands completely belied by the objective evidence on record. The Surveyor’s sketch filed along with the Commissioner’s report clearly establishes that the house measures approximately 5.00 meters on the northern side, 5.40 meters on the southern side, 16.00 meters on the western side, and 15.40 meters on the eastern side. These measurements are wholly inconsistent with, and in fact irreconcilable to, the dimensions spoken to by the Plaintiff. This is not a trivial discrepancy but a glaring and fundamental contradiction which goes to the root of the matter and completely erodes the credibility of the Plaintiff’s version. When the Plaintiff is unable to even state the correct measurements of the very house she claims to possess, her entire case becomes inherently unreliable.

ix) What is even more telling is that, despite the Commissioner's report and Surveyor's sketch clearly exposing these inconsistencies, the Plaintiff has not chosen to file even a single objection to the said report. The Commissioner's report, therefore, stands unchallenged and has attained evidentiary value. The Plaintiff's silence in this regard is not accidental but speaks volumes; it amounts to a tacit admission of the correctness of the Commissioner's findings. Having failed to challenge the report at the appropriate stage, the Plaintiff cannot now be permitted to take a contrary stand. This deliberate inaction further fortifies the conclusion that the Plaintiff has no cogent or consistent case and has approached this Court with a version that is not only contradictory but also devoid of any credible foundation.

x) Further, as per the deposition of DW2, the patta and the measurements reflected therein pertain only to the house. However, the Plaintiff claims entitlement not only to the house but also to the adjacent vacant site. It is also evident that the house itself exceeds the extent of 2 cents, thereby rendering the Plaintiff's claim wholly untenable.

xi) This Court is conscious of the fact that defects in the description of property under Order VII Rule 3 CPC are curable in nature. However, it is for the Plaintiff to take appropriate steps to cure such defects. The Plaintiff, despite being fully aware of the discrepancies and inconsistencies, has failed to take any such steps. The Court cannot, under the guise of adjudication, step into the shoes of the Plaintiff and undertake the task of rectifying the glaring deficiencies in the plaint. It is neither

the duty nor the function of the Court to reconstruct a defective case, supply missing particulars, or reconcile contradictions which the Plaintiff herself has chosen to leave unattended. If such an exercise were to be undertaken, the Court would cease to be an impartial adjudicator and instead assume the role of a litigant, which is wholly impermissible in law. The Plaintiff, having approached this Court seeking equitable relief, is expected to come with a clear, consistent, and legally sustainable case; however, in the present instance, she has placed before the Court a plaint riddled with ambiguities, inconsistencies, and omissions, and now appears to expect the Court to cure these defects. Such an expectation is not only misconceived but borders on an attempt to shift the burden of presenting a coherent case onto the Court itself. The judicial process cannot be reduced to an exercise of guesswork or reconstruction to suit the convenience of a litigant who has failed to discharge her foundational obligations.

Xii) In view of the foregoing discussion, this Court finds that the Plaintiff has failed to establish the identity of the suit schedule property in the manner known to law. The description of the property in the plaint is vague, inconsistent, and incapable of identification either by survey number or by boundaries, as mandated under Order VII Rule 3 CPC. The material contradictions between the plaint averments, the title deeds (Ex.A1 and Ex.A2), the Commissioner's report, Ex.X1, and even the Plaintiff's own oral evidence, go to the root of the matter and render the entire case unreliable. The failure of the Plaintiff to amend the plaint despite clear discrepancies, coupled with her omission to challenge the Commissioner's report, further weakens her case

and amounts to a tacit acceptance of the adverse findings therein.

Xiii) It is well settled that the reliefs of declaration and permanent injunction are equitable in nature, and a party seeking such relief must approach the Court with clean hands, placing before it a clear, consistent, and truthful case. In the present case, the Plaintiff has not only failed to establish her title and possession but has also come forward with a case riddled with contradictions, suppression of material particulars, and shifting stands. A litigant who is unable to clearly identify the very property over which relief is sought, and who permits serious discrepancies to remain uncorrected, cannot seek the indulgence of this Court in the exercise of its equitable jurisdiction. Equity does not aid a party who is uncertain in her own case, nor does it reward a litigant who seeks to derive advantage from ambiguities and inconsistencies.

xiv) Accordingly, both the issues are answered against the Plaintiff, and in the absence of a clear and cogent case, the Plaintiff is not entitled to any equitable relief as prayed for. The above issues are answered against the plaintiff.

8. Answer to Issues No.4:-

The parties are not entitled to any other relief.

In the result, the suit is dismissed. There shall be no order as to costs.

Dictated to the Steno-typist directly and typed by him in computer, corrected and pronounced by me in open court, this the 7th day of April 2026.

**District Munsif,
Shencottai.**

Plaintiff Side Witnesses:

PW1 – Pitchammal (Plaintiff)

Plaintiff Side Documents:-

- Ex.A1** 09.05.1977 Certified copy of Sale deed.
- Ex.A2** 20.04.2006 Certified copy of Sale deed.
- Ex.A3** -- Patta bearing No.3185.
- Ex.A4** -- Rough Plan.
- Ex.A5** -- House tax receipts (Nos.7)
- Ex.A6** -- Water tax receipts (Nos.7)
- Ex.A7** -- Electricity Bills.
- Ex.A8** 04.07.2013 Certified copy of Decree in O.S.No.116/2012.
- Ex.A9** 04.07.2013 Certified copy of Judgment in O.S.No.116/2012.
- Ex.A10** 08.01.2015 Complaint Receipt.

Defendants side Witnesses:

1. DW1- Perumal (2nd Defendant)
2. DW2- Sami Aminal (Surveyor)

Defendants Side Documents:

- Ex.B1** 17.03.2009 Original Settlement deed.

Witnesses documents: -

Ex.X1 -- The record of proceedings relating to the Patta Transfer Application, bearing File No. 393/1428.

**District Munsif,
Shencottai.**

DM Court, Shencottai,
O.S.No.19/2015
Draft/Fair Judgment
Dated. 07.04.2026