

IN THE COURT OF DISTRICT MUNSIF, SHENCOTTAI.

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

District Munsif, Shencottai.

Monday, the 27th day of July 2026

ORIGINAL SUIT No.62/2024

(CNR.No.TNTS11-002433-2024)

V.S.M.Sahul Hameed

.. Plaintiff

/Vs/

1. P.M.Sahul Hameed

2. M. Karuthapandi

.. Defendants

This suit came before me for final hearing on 23.07.2026 in the presence of Thiru. S. Pandiarajan, Advocate for the Plaintiff, and Thiru. M. M. Haroon, Advocate for the 1st Defendant, and steps having not been taken, the suit is dismissed against the 2nd Defendant. After hearing both sides and on perusal of records and having stood over for consideration till this date, this Court delivers the following:

JUDGMENT

This suit is filed seeking a decree declaring that Item No. 1 of the 3rd schedule property belongs to the Plaintiff and Item No. 2 of the 3rd schedule property belongs to the 2nd Defendant as against the 1st Defendant; with a consequential permanent injunction restraining the 1st Defendant, his men, and agents from in any manner interfering with their exclusive possession and enjoyment or obstructing the Plaintiff and the 2nd Defendant respectively from erecting a fence along the boundary posts

planted by them in the said properties; together with directing the 1st Defendant to pay the costs of the suit to the Plaintiff.

2. Plaintiff Case in a Nutshell:-

The case of the plaintiff, in nutshell, is that the 1st schedule property is his absolute self-acquired property, having been purchased under a registered sale deed dated 17.10.1993 bearing Doc. No.1.997/1993, and that patta also stands in his name. According to him, he sold the south-western portion of the said property, described as the 2nd schedule property, to the 2nd defendant under a registered sale deed dated 04.08.2023, pursuant to which the property was sub-divided as Survey No.977/1B, while the remaining portion continues to be in his exclusive possession and enjoyment. It is further pleaded that the 1st defendant owns the adjacent lands in Survey Nos.984 and 985 situated on the western side and has falsely claimed right over the narrow strip of land described as the 3rd schedule property by raising an unnecessary boundary dispute. The plaintiff contends that, on his application, the Government surveyed the property, identified the western boundary with reference to the ADE survey stones, and thereafter the plaintiff and the 2nd defendant planted boundary posts for erecting a barbed-wire fence. The grievance of the plaintiff is that, from 01.10.2024, the 1st defendant has been falsely claiming the existence of a tank irrigation channel passing through the 3rd schedule property by misinterpreting the western boundary recital found in the plaintiff's title deed, though, according to the plaintiff, no such channel is shown either in the field sketch or in the FMB. It is therefore alleged that the 1st defendant is unlawfully interfering with the peaceful

possession and enjoyment of the plaintiff and the 2nd defendant and obstructing the erection of the fence. Hence, the present suit has been filed seeking a declaration of the title of the plaintiff and the 2nd defendant over Items 1 and 2 of the 3rd schedule property respectively and for consequential permanent injunction restraining the 1st defendant from interfering with their possession and enjoyment or preventing them from erecting a barbed-wire fence over the 3rd schedule property.

3. 1st Defendant's Case in a Nutshell:-

The case of the 1st defendant, in brief, is that the suit is not maintainable either in law or on facts and is liable to be dismissed with costs. According to the 1st defendant, Sengulam in Survey No.1082 of Vadakarai Keelpidagai Village is the main source of irrigation for nearly 30 acres of agricultural lands in the locality and, for several years, water has been flowing through a north-south irrigation channel running along the western side of the suit property. It is contended that the said channel originates from Sengulam in the north, extends up to the Achampudur–Vadakarai Main Road on the southern side, and supplies irrigation water to the agricultural lands situated both to the north and south of the road. The 1st defendant further contends that the plaintiff is attempting to obliterate the said irrigation channel with the intention of converting the agricultural land into unapproved housing plots, despite such conversion being impermissible under the provisions of the Tamil Nadu Town and Country Planning Act, 1971 and the Tamil Nadu Change of Land Use Rules, 2017. It is further pleaded that the plaintiff's own sale deed describes the

north-south irrigation channel as the western boundary of the 1st schedule property and, therefore, the alleged 3rd schedule property is non-existent and the plaintiff is estopped from putting forth a contrary claim. The 1st defendant also contends that the farmers who are dependent upon the said channel for irrigation are necessary parties to the suit and that the suit is bad for non-joinder of necessary parties. According to the 1st defendant, the plaintiff and the 2nd defendant have colluded to destroy the irrigation channel, compelling the 1st defendant and other local farmers to submit a representation before the District Collector, Tenkasi, pursuant to which the Tahsildar, Sengottai conducted a field inspection and cautioned the parties against encroaching upon the irrigation channel. On these averments, the 1st defendant seeks dismissal of the suit with compensatory costs.

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

1. Whether the Plaintiff is entitled to a decree of Declaration of Title in respect of the property described in Item 1 of the 3rd Schedule of the Plaint as against the 1st Defendant?
2. Whether the Plaintiff is entitled to a Permanent Injunction restraining the 1st Defendant, their agents, or persons acting under them, from interfering with the Plaintiff's peaceful possession and right to fence the boundary stones (Nadu-karkal) in the Item 1 property?

3. Whether the Plaintiff is entitled to a decree of Declaration that the 2nd Defendant is the absolute owner of the property described in Item 2 of the 3rd Schedule of the Plaint as against the 1st Defendant?
4. Whether a Permanent Injunction should be granted restraining the 1st Defendant from interfering with the 2nd Defendant's exclusive possession and the act of fencing the boundary stones in the Item 2 property?
5. To what other relief the parties are entitled to?

5. In the present case, on the side of plaintiff, PW1 was examined and Ex.A1 to Ex.A5 were marked. On the side of the Defendant, DW1 & DW2 were examined and Ex.B1 & Ex.B2 were marked.

6. Answer to Issues No.1 to 4 :-

i) The above issues are interconnected and, therefore, they are taken up together for consideration.

ii) The learned counsel for the plaintiff contended that the plaintiff had proved his title over the suit 1st schedule property under Ex.A1 and, after conveying a portion thereof to the 2nd defendant under Ex.A3, both were in lawful possession and enjoyment of their respective properties. It was further contended that the Government survey, FMB sketch and the boundary stones fixed on the spot clearly establish the western boundary of the suit property and that the 1st defendant is

attempting to create a false claim of an irrigation channel to interfere with the plaintiff's peaceful possession and prevent the erection of the fence. It was argued that the FMB, being a Government survey record, carries a statutory presumption of correctness and cannot be displaced by oral evidence. Per contra, the learned counsel for the 1st defendant contended that the plaintiff's own parent title deed, Ex.A1, unequivocally describes the western boundary as an irrigation channel and, therefore, the plaintiff could not, under Ex.A3, substitute the permanent western boundary with Survey Nos.984 and 985 so as to enlarge either his own title or that of the 2nd defendant. It was further argued that PW1's admissions regarding the existence of the north-south irrigation channel, the wet nature of the land, the irrigation tank situated to the north, and the flow of irrigation water through the channel completely belie the plaintiff's case. It was also contended that where there is inconsistency between the extent and the boundaries in a title deed, the boundaries prevail, and that the omission of the irrigation channel in the FMB or in Ex.A3 does not extinguish its existence or confer title upon the plaintiff over the disputed property. Therefore, it was submitted that the plaintiff has failed to establish either title or possession over the alleged 3rd schedule property and that the suit is liable to be dismissed.

iii) This Court has carefully considered the rival submissions made by the learned counsel appearing on either side and perused the entire oral and documentary evidence available on record.

iv) The plaintiff traces his title to the suit 1st schedule property measuring 1 acre and 24 cents in Survey No.977 under Ex.A1, the registered sale deed dated

17.10.1993. The boundaries recited in Ex.A1 are: North – Property of Mohammed Rowther; South – Vadakarai–Achampudur Road; East – Property of Mohideen Andavar and others; West – East-West Water Channel. Thus, the very source of the plaintiff's title unequivocally recognises the existence of an irrigation channel as the permanent western boundary of the property.

v) Subsequently, under Ex.A3 dated 04.08.2023, the plaintiff conveyed 23 cents out of the said property to the 2nd defendant. Significantly, the boundaries mentioned therein are: North – Remaining property of the plaintiff; South – Vadakarai–Achampudur Road; East – Remaining property of the plaintiff; West – Survey Nos.984 and 985. Thus, while the northern, southern and eastern boundaries substantially remain the same, the western boundary has been completely altered. The irrigation channel shown as the western boundary in Ex.A1 has been omitted and replaced by Survey Nos.984 and 985.

vi) This material alteration cannot be lightly ignored. The plaintiff derives his title solely under Ex.A1 and, therefore, cannot claim or convey any right beyond what was conveyed to him under the said document. The maxim *nemo dat quod non habet*—no one can transfer a better title than he himself possesses—is squarely applicable. If the plaintiff's western boundary under Ex.A1 ends with the irrigation channel, he cannot, by executing a subsequent sale deed, substitute the permanent physical boundary with different survey numbers so as to enlarge either his own title or that of the 2nd defendant.

Vii) It is a settled principle of property law that where there is inconsistency between the boundaries and the extent mentioned in a title deed, the boundaries prevail, particularly where the boundary consists of a permanent physical feature such as a road, river, canal or irrigation channel. A permanent natural feature cannot disappear merely because it has been omitted in a subsequent conveyance. Therefore, the omission of the irrigation channel in Ex.A3 and the substitution of Survey Nos.984 and 985 as the western boundary do not alter the true western boundary of the property as originally conveyed under Ex.A1.

Viii) PW1, in his cross-examination, made several admissions which go to the root of the plaintiff's case. He admitted that, after selling 23 cents to the 2nd defendant under Ex.A3, he sold a further 21 cents to Mariswami on 19.09.2023, a fact not disclosed in the plaint but evidenced by Ex.B1, and also admitted an earlier sale of 5.73 cents to Solomon. Thus, the plaintiff cannot claim ownership over the entire extent described as the suit 1st schedule property and his remaining extent is only 74.27 cents. PW1 further admitted that the total extent of Survey No.977 is only 1 acre and 40 cents, that his predecessor-in-title owned only 1 acre and 24 cents, and that the remaining 16 cents belonged to his predecessor-in-title. More importantly, PW1 categorically admitted that a north-south irrigation channel exists on the western side of the suit property, that the suit property is wet land, that there is an irrigation tank situated to the north of the suit property, and that the said channel carries irrigation water from the said tank. These admissions assume considerable significance. Under Section 2(11) of the Tamil Nadu Additional Assessment and

Additional Water-Cess Act, 1963, "wet land" means land registered in the Government revenue records as wet, single-crop wet land, compounded double-crop wet land or double-crop wet land. Thus, the statutory classification of the suit property as wet land depends upon its classification in the Government revenue records and not merely upon its present physical condition or user. The admitted existence of an irrigation tank and a north-south irrigation channel supplying water to the suit property is wholly consistent with such statutory classification. These admissions completely belie the altered western boundary recitals found in Ex.A3 and reinforce the recital in Ex.A1 that the western boundary of the plaintiff's property is an irrigation channel. Consequently, Ex.A3 could not have conveyed to the 2nd defendant any better or larger right than what the plaintiff himself acquired under Ex.A1.

ix) The learned counsel appearing for the plaintiff relied upon Ex.A4, the Field Measurement Book sketch, and contended that since the irrigation channel is not shown therein, it should be presumed that no such channel exists. It was further argued by placing reliance upon Section 90(1)(b) and Section 90(2) of the Registration Act, 1908, read with Section 48 of the said Act and Section 92 of the Indian Evidence Act, that the FMB forms part of the Government survey records and is deemed to be a registered document and, therefore, no oral evidence can be let in contrary to the contents thereof. This contention cannot be accepted.

x) In *The Secretary of State for India in Council v. T.V. Raghavachariar*, AIR 1924 Mad 913, the Hon'ble Madras High Court has categorically held that the mere omission to separately demarcate an irrigation channel as Government poramboke in survey or revenue records does not alter its legal character. Irrigation channels are often not separately demarcated in survey records, yet such omission neither extinguishes their character as poramboke nor confers title upon the pattadar. The Hon'ble Madras High Court further held that merely because a channel forms part of a survey number covered by a patta, it cannot be inferred that the channel ceases to be Government poramboke.

xi) Therefore, the mere absence of any separate indication of the irrigation channel in Ex.A4 FMB sketch does not lead to the conclusion that no such irrigation channel exists, especially when the plaintiff's own parent title deed recognises its existence and PW1 himself has admitted its existence during cross-examination.

Xii) Further, the Hon'ble Supreme Court in *M.C. Mehta v. Kamal Nath*, AIR ONLINE 1996 SC 711, while explaining the Public Trust Doctrine, has held that natural resources such as rivers, lakes, tanks, running waters and other water bodies are held by the State as a trustee for the benefit of the public and cannot be converted into private ownership or diverted for private use contrary to public interest. The State has a legal obligation to preserve and protect such natural resources.

Xiii) The admissions of PW1 clearly establish that the channel admittedly originates from the irrigation tank situated on the northern side and carries irrigation

water through the western side of the suit property. Such an irrigation channel forms part of the irrigation system benefiting agricultural lands and cannot be treated as private property merely because it has not been separately shown in the FMB sketch.

xiv) Thus, the plaintiff's own title deed under Ex.A1 recognises the irrigation channel as the western boundary; PW1 has admitted the existence and function of the irrigation channel; Ex.A3 seeks to substitute the western boundary without any legal basis; and the settled principles of law clearly establish that permanent physical boundaries prevail over the numerical extent mentioned in title deeds. Consequently, the plaintiff cannot claim title over any land lying beyond the irrigation channel nor seek a declaration in respect of the alleged 3rd schedule property by ignoring the permanent western boundary contained in his own title deed.

xv) In view of the foregoing discussion, this Court holds that the plaintiff has failed to establish his title or lawful possession over Item No.1 of the 3rd Schedule property. Since the 2nd defendant claims title only through the plaintiff under Ex.A3, which could not convey a better title than that acquired by the plaintiff under Ex.A1, the 2nd defendant has also failed to establish title over Item No.2 of the 3rd Schedule property. Consequently, neither the plaintiff nor the 2nd defendant is entitled to the relief of declaration or the consequential relief of permanent injunction as prayed for. Accordingly, Issues Nos.1 to 4 are answered against the plaintiff.

7. Answer to issue No.5:-

The plaintiff is not entitled to any other relief.

In the result, the suit is dismissed with costs.

Dictated to the Steno-typist directly and typed by him in computer, corrected and pronounced by me in open court, this the **27th day of July 2026.**

**District Munsif,
Shencottai.**

Plaintiff Side Witnesses:

PW1 – V.S.M.Sahul Hameed (Plaintiff)

Plaintiff Side Documents:-

Ex.A1	17.10.1993	Certified Copy of Sale deed.
Ex.A2	--	Computer Patta bearing No.5462.
Ex.A3	04.08.2023	Certified Copy of Sale deed.
Ex.A4	--	FMB map for Survey No.977.
Ex.A5	--	Rough Plan.

Defendants side Witnesses:

- 1. DW1- P.M.Sahul Hameed (1st Defendant)**
- 2. DW2- Mohammed Ismail**

Defendants Side Documents:

Ex.B1	19.04.2026	Online Copy of Encumbrance Certificate.
Ex.B2	30.05.2005	Certified Copy of Partition deed.

**District Munsif,
Shencottai.**

DM Court, Shencottai,
O.S.No.62/2024
Draft/Fair Judgment
Dated.27.07.2026