

In the Court of the District Munsif, Sathankulam.

Present. Thiru.M.Siva Rajesh, B.B.A.,L.L.B.,

District Munsif Sathankulam.

Dated:- This the 22nd day of June 2026, Monday.

O.S.No.25/2024

(CNR.No.TNTT100000272024)

Evitta Rani (Age 44),

W/o.Emmanuel Dayanandan,

Door No.13/7 Chaukiyapuram,

Sasthavinallur Village,

Sathankulam Taluk, Thoothukudi District.

... Plaintiff

/Vs/

1.John (Age 52),

S/o.Muthaiyan,

Prayer house opposite bus stop

Chaukiyapuram, Sasthavinallur Village,

Sathankulam Taluk, Thoothukudi District.

2. The Tahsildar, Sathankulam,

Taluk Office, Sathankulam Taluk,

Thoothukudi District.

3. District Collector,

District Collector Office Koramballam,

Thoothukudi, Thoothukudi District

... Defendants

(The Complaint is amended as per I.A. No: 303/2025, dated 14.10.2025)

This suit coming before me on 30.04.2026 in the presence of Mr.K.Willin Felix Advocate for the plaintiff, and Mr.J.Balaganesan Advocate for the 1st defendant, and Government Pleader Grade 2 Advocate for the 2nd and 3rd defendants and on hearing both side, upon perusing case evidence and records and having stood over for consideration till this day, this court delivers the following:-

JUDGEMENT

Relief :-

The suit has been filed by the plaintiff seeking a declaration that the suit schedule property belongs to him and, for a decree of permanent injunction restraining the 1st defendant, his men, agents, or anybody claiming under him from causing any obstruction to his peaceful possession and enjoyment of the suit schedule property, including from damaging the eastern side wire fence erected in the suit schedule property or interfering in any other manner, recovery of the costs of the suit from the 1st defendant, and other relief the court thinks fit.

Counter claim of the 1st defendant :-

The 1st defendant has sought a mandatory injunction directing the plaintiff to remove, the fence erected by fixing stone pillars after encroaching upon the pathway situated on the northern side of the counter-claim schedule property, within the time stipulated by this Court, In case of default, mandatory injunction directing the plaintiff to remove of the said thorn fence at his cost, relief of costs, and other relief this court thinks fit.

2. Case of the plaintiff :-

2.1 The plaintiff state that her husband Immanuel Dayanandan, purchased the said property under Sale Deed Document No.147 of 2021 dated 29.01.2021 registered before the Sub-Registrar Office, Kommadikottai, and had been in possession and enjoyment thereof. Patta No.3384 was issued in the name of the plaintiff's husband, Immanuel Dayanandan, by the revenue authorities of Naduvakkurichi Revenue Village, and he had been enjoying the property accordingly.

2.2 The plaintiff further state that thereafter, the said Immanuel Dayanandan settled the suit schedule property in her favour under Settlement Deed Document No.480 of 2021 dated 08.03.2021 registered before the Sub-Registrar Office, Kommadikottai, and also delivered possession of the property to her. It was stated that Subsequent to the execution of the said settlement deed, the plaintiff alone has been in possession and enjoyment of the plaint schedule property. Patta No.3399 has been issued by the revenue authorities of

Naduvakkurichi Revenue Village in respect of the suit schedule property, and the plaintiff has been in possession and enjoyment of the property with patta and payment of kist. It was further stated that the plaintiff has raised drumstick trees in the suit schedule property and has been deriving income therefrom.

2.3 The plaintiff further state that on the eastern and northern sides of the suit schedule property, there are lands belonging to the 1st defendant. It was stated that the 1st defendant is conducting a prayer hall therein. As the facilities available in the said prayer hall were inadequate, the 1st defendant requested the plaintiff to sell the suit schedule property at a low price. Though the first defendant has no manner of right with the suit schedule property, he made attempts to purchase the same from the plaintiff and her husband Immanuel Dayanandan for a lesser consideration. The plaintiff and her husband informed him that they were not willing to alienate the property as they intended to retain it for their own use.

2.4 The plaintiff alleged that harbouring ill-will against her on account of the refusal, the first defendant, claiming that the second defendant was his close associate, and with the aid and support of the second defendant, entertained a mala fide intention to interfere with the plaintiff's possession and enjoyment. Accordingly, on 21.03.2024, they came to the suit schedule property and insisted that the fencing on the southern side of the property be shifted and re-aligned. It was stated that the plaintiff objected to and rejected their demand. Thereafter, with the support of the second defendant, the first defendant has been attempting, from 21.03.2024 onwards, to damage the wire fencing situated on the eastern side of the suit schedule property.

2.5 The plaintiff state that he repeatedly informed 1st and 2nd defendants that the suit schedule property had lawfully devolved upon her by virtue of the sale transaction and that she has been in exclusive possession and enjoyment thereof under a separate patta. However, without heeding the same, the first defendant has continuously interfered with her peaceful possession and enjoyment of the property with the support of the second defendant. Hence, the plaintiff has been constrained to institute the present suit.

3. Counter claim statement of 1st defendant :-

3.1 The 1st defendant denied the contention of the plaintiff.

3.2 The 1st defendant state that the plaintiff and her husband have encroached upon the pathway belonging to him and have erected a thorn fence with stone pillars therein. Therefore, he personally met the plaintiff and her husband and requested them to remove the thorn fence put up by encroaching upon the property belonging to the first defendant. It was stated that however, the plaintiff and her husband falsely claimed that the property belonging to the first defendant belonged to the plaintiff and refused to remove the illegally erected thorn fence. Consequently, the first defendant lodged a complaint before the Tattarmadam Police Station seeking removal of the thorn fence. During the enquiry on the complaint petition, the plaintiff and her husband were directed to remove the thorn fence erected in the property belonging to the first defendant, but they refused to comply. Thereupon, the Inspector of Police advised the first defendant that the dispute between the plaintiff and the first defendant was one relating to civil rights and that he should seek appropriate relief before the competent civil court. Therefore, the first defendant initiated legal proceedings for removal of the thorn fence erected by the plaintiff and her husband in the property belonging to him. Apprehending such legal action, the plaintiff and her husband, with a view to thwart the same, have filed the present suit on false and untenable allegations.

3.3 The first defendant state that he purchased the counter-claim schedule property under Sale Deed Document No.932 of 2009 dated 12.08.2009 and has been in possession and enjoyment thereof ever since. The first defendant further state that he is the Pastor of the church known as "Holy Life India Pentecostal Church" functioning at Solakkiyapuram. Keeping in view the welfare of the members of the said church, he constructed a new church building in the counter-claim schedule property. For the benefit of the people attending the church functioning therein, the vendors who had executed the sale deed in favour of the first defendant jointly executed a Settlement Deed dated 14.11.2012 creating a pathway. The members of the Holy Life India Pentecostal Church have been accessing the church only through the said pathway.

3.4 It was stated that the plaintiff and her husband, intending to divert the congregation attending the church of the first defendant, announced that they were going to start a new church and requested the church members not to attend the church conducted by the first defendant but instead to join the church to be conducted under the leadership of the plaintiff. However, the members attending the Holy Life India Pentecostal Church refused to accede to the plaintiff's request. Thereupon, with the ulterior motive of preventing the general public from attending the first defendant's church, the plaintiff and her husband encroached upon the pathway belonging to the first defendant and erected a thorn fence therein. Despite repeated requests made by the first defendant and the members of the Holy Life India Pentecostal Church to remove the thorn fence, the plaintiff and her husband refused to do so. The conduct of the plaintiff is illegal in the eye of law. Considering the submission the 1st defendant prays for dismissal of the suit with costs.

4. Written statement of 2nd and 3rd defendant :-

4.1 The 2nd and 3rd defendant denied the contention of the plaintiff.

4.2 The defendants state that land comprised in Survey No.122/1B1 of Naduvakkurichi Village, measuring an extent of 0.21.0 Ares, originally belonged to Immanuel Dayanandan vide Sale Deed Document No.147 of 2021 dated 29.01.2021 registered in the office of the Sub-Registrar, Kommadikottai. Out of the said extent, Immanuel Dayanandan settled an extent of 0.18.22 Ares in favour of his wife, Evitta Rani, vide Gift Settlement Deed Document No.480 of 2021 dated 08.03.2021. Subsequently, Immanuel Dayanandan sold the remaining extent of 0.02.78 Ares in his possession to Immanuel Stephen, son of Gunasingh, under Sale Deed Document No.738 of 2021 dated 22.04.2021.

4.3 The defendants further state that pursuant to the order of the Tahsildar bearing No.TK8A/A7/1430 dated 24.04.2021, Survey No.122/1B1 was subdivided into Survey No.122/1B1A measuring 0.18.20 Hectares and Survey No.122/1B1B measuring 0.02.78 Ares. As per Patta No.3399, Survey No.122/1B1A measuring 0.18.22 Ares stands in the exclusive name of the plaintiff, while Survey No.122/1B1B measuring 0.02.78 Ares stands

in the exclusive name of Immanuel Stephen, son of Gunasingh, under Patta No.3414.

4.4 The defendants further state that, in the same village, in Punja Survey No.122/1B2 measuring 0.50.0 Hectares and Survey No.120/1A1 measuring 0.09.5 Hectares, aggregating to an extent of 0.59.5 Hectares (1.47 acres), excluding Part No.2 belonging to Pappammal and Karpagapoo, an extent of 43 cents situated in the middle on the southern side was purchased and has been enjoyed by Pastor Mr. John, the first defendant in the suit, under Sale Deed Document No.932 of 2009 dated 12.08.2009 from Mr. Dasan, the power agent of Thiraviamuthu and Epsibai alias Epsi Saroja.

4.5 The defendants further state that according to the subdivision records, the land in the possession and enjoyment of Mr. John forms part of Survey No.122/1B2A measuring 0.43.5 Ares and stands under Joint Patta No.2727 in the names of Karpagapoo, John and Gunasingh. In the southern portion of the 49 cents belonging to Mr. John in Survey No.122/1B2A, a Pentecostal Church has been established and Mr. John has been functioning as its Pastor.

4.6 The defendants further state that in the meanwhile, pursuant to the order passed by the Hon'ble Madurai Bench of the High Court in W.P.(MD) No.4157 of 2024, the property comprised in Punja Survey No.122/1B1B measuring 0.02.78 Ares belonging to Immanuel Stephen, who is the plaintiff in the said writ petition, was surveyed on 21.03.2024 by the Surveyor of Pallakurichi Firka in the presence of the Tahsildar, Deputy Tahsildar, Revenue Inspector, Village Administrative Officer and Village Assistant, and all four boundaries of the said survey field were identified and shown to him. During the same survey, the eastern boundary of Punja Survey No.122/1B1A measuring 0.18.20 Ares belonging to Mrs. Evitta Rani, the plaintiff in O.S. No.25 of 2024, was also measured.

4.7 The defendants further state that thereafter, Mrs. Evitta Rani and Immanuel Stephen, the owner of Survey No.122/1B1B, attempted to put up fencing around their respective properties. In order to facilitate ingress and egress to the Pentecostal Church situated in Survey No.122/1B2A belonging to Pastor John, Immanuel Stephen, owner of Survey No.122/1B1B, left a pathway one metre in width running north-south on the western

side of his patta land and fenced the remaining area. The said one-metre-wide pathway is sufficient for access to the church in Survey No.122/1B2A and also for the movement of vehicles, and the plaintiff has also put up fencing on half of the eastern boundary of Survey No.122/1B1A.

4.8 The defendants further state further that on 21.03.2024, the land measuring 0.02.78 Ares comprised in Survey No.122/1B1B belonging to Immanuel Stephen was surveyed pursuant to the order dated 14.03.2024 passed by The Hon'ble Madurai Bench of the High Court in W.P.(MD) No.4157 of 2024. It was alleged that the plaintiffs have not approached this Court with clean hands., and the plaintiff has instituted the suit solely due to personal animosity against the first defendant. Considering the submission the defendants prays for dismissal of the suit with costs.

5. Replica filed by the plaintiff :-

5.1 The plaintiff state that with regard to the pathway sought to be cleared by the first defendant, the east-west measurement, north-south measurement and total extent have not been specified at all, and on that ground alone, the counter-claim preferred by the first defendant is liable to be dismissed. It was stated that moreover, the first defendant has not clearly stated the route through which he and the members of the Holy Life India Pentecostal Church have been accessing the church.

5.2 The plaintiff state that the first defendant has no pathway leading to the Pentecostal Church. It was alleged that the pathway now claimed by the first defendant has never, at any point of time, belonged to him, and the first defendant possesses no document in respect of the alleged pathway. In the absence of any documentary evidence, the first defendant has no right to seek any relief by way of counter-claim.

5.3 The plaintiff state that the first defendant has no cause of action whatsoever for filing the counter-claim. Seeking relief in respect of a property over which the first defendant has no title or right is contrary to law. Therefore, on this ground also, the counter-claim filed by the first defendant is liable to be dismissed.

6. On perusal of pleadings and material available on record, this court frame the following issues for adjudication :-

Issues:-

1. Whether the plaintiff is entitled to title declaration in respect of suit schedule property?
2. Whether the plaintiff is entitled to permanent injunction against 1st defendant/their men/their agent from interfering his peaceful possession in respect of suit schedule property?
3. Whether the 1st defendant is entitled to mandatory injunction as claimed in the counter-claim?
4. Whether the 1st defendant is entitled to Mandatory injunction as claimed ?
5. Whether the plaintiffs are entitled relief of cost from 1st defendant?
6. Whether the plaintiffs are entitled to any other relief?

7. Written arguments of 2nd and 3rd defendant :-

7.1 The plaintiff has filed the present suit seeking the reliefs of declaration and permanent injunction in respect of the suit schedule property. The said reliefs are not maintainable either on facts or in law, and the suit is therefore liable to be dismissed as against 2nd and 3rd defendants.

Insofar as the relief of declaration is concerned, the plaintiff has sought a declaration that the suit schedule property belongs to the plaintiff. It is a settled principle of law that the burden lies entirely upon the plaintiff to prove title by producing clear, valid, and acceptable documentary evidence. The plaintiff cannot succeed merely on the weakness of the defendants' case.

- In Union of India v. Vasavi Cooperative Housing Society Ltd. (2014) 2 SCC 269, the Hon'ble Supreme Court held that the plaintiff must succeed on the strength of his or her own title and not on the weakness of the defendant's case. The plaintiff must independently establish valid title by producing title deeds, parent documents, revenue records, and proof of lawful possession.
- Therefore, unless the plaintiff proves lawful title by proper evidence, the relief of declaration cannot be granted. In the absence of such proof, the said relief is liable to be rejected.

- With regard to the relief of permanent injunction, the plaintiff has alleged in 5th paragraph of the plaint that, due to personal enmity, the 1st defendant, along with the 2nd defendant, came to the suit property on 21.03.2024 with the intention of interfering with the plaintiff's possession and attempted to alter the fence situated on the lower side of the suit property. The plaintiff has further alleged that from 21.03.2021 onwards, the 1st defendant along with the 2nd defendant had been attempting to damage the wire fence situated on the eastern side of the suit property.
- However, the said allegations are completely contradicted by the plaintiff's own admissions made during cross-examination.
- In cross-examination, the plaintiff admitted that the plaintiff's husband was allotted 0.21.00 Ares (51.87 cents) under Document No. 1; that under Document No. 2, 0.18.22 Ares (45 cents) out of the said extent was settled in favour of the plaintiff; that the remaining extent of 6.87 cents was given by the plaintiff's husband to one Immanuel Stephen; that the said property was subdivided under Survey No. 122/1B1B; that Immanuel Stephen filed a writ petition before the Madurai Bench of the Madras High Court seeking measurement of his property; that pursuant to the order passed therein, the Tahsildar, Village Administrative Officer, Revenue Officer, and Surveyor measured the property; that the plaintiff did not raise any objection at that time; that the property purchased by Immanuel Stephen lies on the eastern side of the plaintiff's property; and that the surveyor also measured the eastern side of the suit property.
- The above admissions clearly establish the true factual position and demolish the plaintiff's allegations of interference by 2nd and 3rd defendants.
- In fact, Immanuel Stephen had purchased 7 cents of land situated to the east of the suit property from the plaintiff's husband. In respect of the said property, he filed a writ petition before the Madurai Bench of the Madras High Court seeking measurement of the property and fixation of boundary stones.

- The said writ petition was taken on file as W.P.(MD) No. 6157 of 2024, and by order dated 14.03.2024, the Hon'ble Madurai Bench of the Madras High Court directed the Tahsildar, Sathankulam, and the Firka Surveyor, Sathankulam, to carry out the measurement and grant the relief sought by the petitioner Immanuel Stephen.
- Pursuant to the said order, on 21.03.2024, in the presence of the Tahsildar, Deputy Tahsildar, Revenue Inspector, Village Administrative Officer, and Village Assistant, the competent surveyor measured the land and fixed the boundaries on all four sides for Immanuel Stephen, thereby complying with the order of the Hon'ble High Court.
- Significantly, the very same date on which the plaintiff alleges interference by 2nd and 3rd defendants, namely 21.03.2024, was the date on which the government officials were actually carrying out the order passed by the Hon'ble Madurai Bench of the Madras High Court in W.P.(MD) No. 6157 of 2024.
- The plaintiff has also admitted the said factual position in cross-examination. Therefore, it is clear that 2nd and 3rd defendants did not interfere with the plaintiff's possession in any manner.
- On the contrary, the records would show that the present suit has been filed only to obstruct the execution of the High Court's order and to prevent government officials from discharging their lawful duties, thereby causing unnecessary administrative inconvenience.
- It is therefore evident that no real, subsisting, or legally sustainable cause of action has arisen against 2nd and 3rd defendants in respect of the suit schedule property.
- In *State of Maharashtra v. Digambar* (1995) 4 SCC 683, it was held that injunction is an equitable relief and a person who fails to establish a legal right or cause of action is not entitled to such relief. A permanent injunction cannot be granted merely on vague allegations unsupported by proof of infringement of a legal right.
- In *Dalpat Kumar v. Prahlad Singh* (1992) 1 SCC 719, it was held that, in the absence of cause of action or legal injury, injunction cannot be granted.

- In the present case, the plaintiff has utterly failed to establish any lawful right, actual possession, or real interference as against 2nd and 3rd defendants. In the absence of proof regarding lawful right, possession, and actual interference, the relief of permanent injunction cannot be granted.
- It is settled law that injunction, being an equitable relief, can be granted only when the plaintiff first establishes a legally enforceable right. Since the plaintiff has failed to satisfy these essential requirements, the plaintiff is not entitled to the relief of permanent injunction.
- The plaintiff has thus failed to establish:
 - (i) lawful title sufficient to seek declaration;
 - (ii) any genuine cause of action against 2nd and 3rd defendants;
 - (iii) any actual interference by 2nd and 3rd defendants and
 - (iv) the legal requirements necessary for grant of permanent injunction.
- In such circumstances, the suit is liable to be dismissed as against 2nd and 3rd defendants.
- Therefore, it is most respectfully prayed that this Court may be pleased to dismiss the suit with costs as against 2nd and 3rd defendants, and thus render justice.

8.Points for determination :-

8.1 Issue no : 1 :-

(i) Whether the plaintiff is entitled to title declaration in respect of suit schedule property?

8.1.1 In the present case, the plaintiff examined herself as P.W.1. Through her oral testimony, she has consistently stated that the suit schedule property was originally purchased by her husband, Immanuel Dayanandan, under Ex.A1 - Sale Deed Document No.147 of 2021 dated 29.01.2021 registered in the office of the Sub-Registrar, Kommadikottai. The said document evidences the acquisition of title by Immanuel Dayanandan in respect of Survey No.122/1B1. Thereafter, under Ex.A2 - Settlement Deed Document No.480 of 2021 dated 08.03.2021, Immanuel Dayanandan settled a defined

portion of the said property in favour of the plaintiff. The execution and registration of Ex.A2 have not been disputed by any acceptable evidence. Thus, the plaintiff traces her title directly through two registered documents, namely Ex.A1 and Ex.A2.

8.1.2 To substantiate her possession and enjoyment pursuant to such title, the plaintiff has produced Ex.A3 - Computerised Patta, Ex.A4 - Land Tax Receipts and Ex.A5 - Adangal Register Extract. Though it is well settled that revenue records by themselves do not create or confer title, they constitute relevant evidence regarding possession and enjoyment when supported by valid title deeds. In the case on hand, Ex.A3 to Ex.A5 are not standalone documents. They are ancillary records flowing from and consistent with the title established under Ex.A1 and Ex.A2. Therefore, these revenue records lend assurance to the plaintiff's claim that she has been in possession and enjoyment of the property after settlement.

8.1.3 The evidence of P.W.1 further discloses that the total extent purchased by her husband under Ex.A1 measured 0.21.00 Ares and that, under Ex.A2, an extent of 0.18.22 Ares was settled upon her, while the remaining extent was subsequently conveyed to one Immanuel Stephen. During cross-examination, P.W.1 candidly admitted:

"என் கணவருக்கு மா.வா.சா.ஆ.1 ஆவணம் மூலம் 0.21.00 ஏர்ஸ் பாத்தியப்பட்டது என்று சொன்னால் சரிதான். மேற்படி இடத்தில் மா.வா.சா.ஆ.2 மூலம் எனது கணவர் எனக்கு 0.18.22 ஏர்ஸ் கொடுத்தார் என்று சொன்னால் சரிதான். மீதம் உள்ள இடத்தை என் கணவர் இம்மானுவேல் ஸ்டீபன் என்பவருக்கு கொடுத்தார் என்று சொன்னால் சரிதான்."

8.1.4 Far from weakening the plaintiff's case, the above admission clarifies the source and extent of her title. The plaintiff has not attempted to claim the entirety of the original extent purchased under Ex.A1. On the contrary, she has specifically confined her claim to the extent settled upon her under Ex.A2.

8.1.5 P.W.1 further admitted that the remaining extent sold to Immanuel Stephen was subsequently subdivided and lies on the eastern side of her property. Such admission

demonstrates fairness and consistency in her version. It also establishes that the plaintiff recognises the independent title of Immanuel Stephen over the adjoining subdivision and does not claim any right therein.

8.1.6 The defendants relied upon Ex.B1 - Field Measurement Book Sketch relating to Survey No.122. P.W.1 admitted that Ex.B1 is the sketch pertaining to Survey No.122. However, a careful examination of Ex.B1 does not undermine the plaintiff's case. On the contrary, the sketch indicates the existence of separate subdivisions within Survey No.122, including Survey Nos.122/1B1A and 122/1B1B. The plaintiff's case is that the property settled upon her falls within Survey No.122/1B1A, while the eastern subdivision belongs to Immanuel Stephen. Thus, Ex.B1 substantially supports the plaintiff's contention that her property is a distinct and identifiable subdivision capable of separate possession and enjoyment.

8.1.7 Further, P.W.1 admitted that Immanuel Stephen had approached the Hon'ble Madurai Bench of the High Court seeking measurement of his property and that the revenue authorities measured the property pursuant to the directions issued therein. She further admitted that she did not raise any objection during such measurement. These admissions merely establish that the adjoining property belonging to Immanuel Stephen was measured and demarcated by the competent authorities. They do not in any manner cast doubt upon the plaintiff's title over her own property. Rather, they reinforce the conclusion that the two properties are separate, distinct and capable of independent identification.

8.1.8 It has to be noted that though the 1st defendant has filed a written statement and a counter-claim disputing the plaintiff's title, he failed to cross-examine P.W.1 despite sufficient opportunities afforded by this Court. More importantly, he did not enter the witness box nor adduce any oral or documentary evidence whatsoever in support of the allegations contained in his written statement and counter-claim. Consequently, the testimony of P.W.1 regarding the source of title, possession, enjoyment and identity of the property remains substantially unchallenged and unrebutted.

8.1.9 It is a settled principle of law that pleadings are not evidence. A party who asserts a competing right over immovable property must establish the same through acceptable evidence. The 1st defendant, having chosen not to enter the witness box and having failed to subject P.W.1 to cross-examination, cannot expect this Court to accept the bare allegations contained in the written statement and counter-claim as proof of his assertions. Therefore, the challenge made by the 1st defendant to the plaintiff's title remains a mere pleading unsupported by evidence.

8.1.10 Equally, 2nd and 3rd defendants have not produced any document capable of discrediting Ex.A1 or Ex.A2. No material has been placed before this Court to show that either of the said registered documents is invalid, void, fraudulent or otherwise incapable of conveying title. In the absence of any such evidence, the registered documents produced by the plaintiff continue to enjoy the presumption of genuineness attached to registered instruments.

8.1.11 Upon an overall appreciation of the oral and documentary evidence available on record, this Court finds that the plaintiff has successfully established her derivative title to the suit schedule property through Ex.A1 and Ex.A2. The supporting revenue records under Ex.A3 to Ex.A5 corroborate her possession and enjoyment. The admissions elicited during cross-examination do not dislodge her title but instead clarify the exact extent of her entitlement and the location of the adjoining subdivision. The defence has failed to place any acceptable rebuttal evidence before this Court.

Accordingly, this Court holds that the plaintiff has proved her title to the suit schedule property corresponding to Survey No.122/1B1A covered by Patta No.3399 and derived under Ex.A2 - Settlement Deed Document No.480 of 2021 dated 08.03.2021.

Consequently, the plaintiff is entitled to the relief of declaration as prayed for.

Accordingly, Issue no : 1 is answered in favour of the plaintiff.

9. Issue no : 2 :-

(ii) Whether the plaintiff is entitled to permanent injunction against 1st defendant/their men/their agent from interfering his peaceful possession in respect of suit schedule property?

9.1 As already stated under Issue No.(i), the plaintiff has successfully established her title over the suit schedule property through Ex.A1 - Sale Deed Document No.147 of 2021 dated 29.01.2021 and Ex.A2 - Settlement Deed Document No.480 of 2021 dated 08.03.2021. The plaintiff's possession and enjoyment are further supported by Ex.A3 - Computerised Patta, Ex.A4 - Land Tax Receipts and Ex.A5 - Adangal Register Extract. The evidence of P.W.1 further discloses that she has been enjoying the suit property after settlement and has cultivated drumstick trees therein. Thus, both title and possession of the plaintiff stand established by acceptable oral and documentary evidence.

9.2 The principal defence of the 1st defendant is that the plaintiff has encroached upon a pathway allegedly belonging to him and that she has erected fencing over the same. Based on such allegations, the 1st defendant has even chosen to file a counter-claim seeking mandatory injunction. However, a careful scrutiny of the records reveals that the very foundation of the defence and counter-claim remains wholly unproved.

9.3 Though serious allegations have been levelled against the plaintiff, the 1st defendant neither entered the witness box nor adduced any oral or documentary evidence in support of his case. More importantly, despite sufficient opportunities afforded by this Court, the 1st defendant failed to cross-examine P.W.1. Consequently, the testimony of P.W.1 regarding her possession, enjoyment and the acts of interference complained of has remained substantially unchallenged and unrebutted.

9.4 It is a settled principle of law that pleadings are not proof. Mere averments contained in a written statement or counter-claim do not constitute evidence. A party who asserts a competing right over immovable property must establish the same through acceptable evidence. In the present case, the 1st defendant has failed to establish the existence, identity, measurements or legal character of the alleged pathway. He has also

failed to prove that he possesses any title, easementary right or other legally enforceable interest over the pathway allegedly obstructed by the plaintiff. Therefore, the entire defence put forward by the 1st defendant remains a mere pleading unsupported by evidence.

9.5 Further, the survey proceedings undertaken by the revenue authorities pursuant to the High Court's directions cannot, by themselves, extinguish or diminish the plaintiff's possessory rights over the suit schedule property. Nor do such proceedings confer any independent right upon the 1st defendant to enter upon or disturb the plaintiff's possession. Therefore, the admissions elicited from P.W.1 regarding the survey proceedings do not advance the case of the 1st defendant.

9.6 A very significant circumstance is that the 1st defendant has not merely denied the plaintiff's possession. He has asserted a competing claim over a portion of the property and has sought removal of the alleged obstruction by way of counter-claim. However, as stated supra the 1st defendant has failed to establish any legal right over the alleged pathway. Once such competing claim remains unproved, the inevitable consequence is that the 1st defendant has failed to demonstrate any lawful authority to interfere with the plaintiff's possession.

9.7 It has to be noted that a person in lawful possession of immovable property need not wait until actual dispossession occurs before approaching the Court. Where a rival claimant asserts adverse rights and threatens to disturb existing possession without establishing a lawful basis for such claim, the Court is empowered to protect the possession of the lawful occupant. In the present case, the institution of the counter-claim itself, coupled with the allegations regarding encroachment and removal of fencing, clearly demonstrates the existence of a live dispute concerning the plaintiff's possession. Therefore, the threat complained of by the plaintiff cannot be regarded as illusory or imaginary.

9.8 As stated supra this Court has already held under Issue No.(i) that the plaintiff has established her title and possession over the suit schedule property. Conversely, the 1st defendant has failed to establish either title or any enforceable right over the alleged pathway which forms the foundation of his defence and counter-claim. In such circumstances, any attempt by the 1st defendant, his men, agents or persons claiming under

him to interfere with the plaintiff's possession would be wholly without authority of law. Therefore, the plaintiff's possession deserves protection until displaced through due process of law.

Accordingly, this Court holds that the plaintiff has established her lawful possession over the suit schedule property.

Hence, the plaintiff is entitled to permanent injunction restraining the 1st defendant, his men, agents and anybody claiming under him from interfering with her peaceful possession and enjoyment of the suit schedule property.

Accordingly, Issue no : 2 is answered in favour of the plaintiff.

10. Issue no : 3 :-

(iii) Whether the 1st defendant is entitled to mandatory injunction as claimed in the counter-claim?

10.1 On this issue, it is first necessary to note that the plaintiff has not sought any relief of mandatory injunction in the plaint. The relief claimed by the plaintiff, as seen from the plaint, is one for declaration of title and permanent injunction restraining interference with peaceful possession and enjoyment of the suit schedule property. On the other hand, the relief of mandatory injunction has been specifically sought only by the 1st defendant in the counter-claim, namely, for a direction to the plaintiff to remove the fence allegedly erected after encroaching upon the pathway situated on the northern side of the counter-claim schedule property. Therefore, if this issue is framed as "Whether the plaintiff is entitled to mandatory injunction as claimed?", the issue does not arise on the plaintiff's pleadings and is liable to be answered against the plaintiff for the simple reason that no such relief has been claimed by the plaintiff at all.

11. Issue no : 4 :-

(iv) Whether the 1st defendant is entitled to Mandatory injunction as claimed ?

11.1 It is pertinent to note that despite sufficient opportunities having been afforded by this Court, the 1st defendant failed to adduce any oral or documentary evidence in support of his counter-claim. Further, the 1st defendant failed to cross-examine P.W.1. Consequently,

the testimony of P.W.1 has remained unchallenged and unrebutted. It is well settled that where the evidence of a witness remains uncontroverted and there is no effective cross-examination, the same ordinarily deserves acceptance unless inherently improbable. In the present case, nothing has been brought on record to discredit the testimony of P.W.1.

11.2 Moreover, except the pleadings contained in the written statement and counter-claim, there is no legally admissible evidence to establish that the alleged pathway belongs to the 1st defendant or that the plaintiff has unlawfully encroached upon the same. Mere pleadings, however strong, cannot take the place of proof. The 1st defendant, who seeks an equitable relief of mandatory injunction, ought to have established a clear and enforceable legal right. Having failed to let in evidence and having omitted to cross-examine P.W.1 despite sufficient opportunities, the 1st defendant has failed to discharge the burden cast upon him.

Accordingly, this Court holds that the 1st defendant is not entitled to the relief of mandatory injunction as prayed for in the counter-claim.

Issue no : 4 answered against the 1st defendant.

12. Issue no : 5 :-

(v) Whether the plaintiffs are entitled relief of cost from 1st defendant?

12.1 Having regard to the facts and circumstances of the case, this Court is of the opinion that the plaintiff shall bear her own costs.

13. Issue no : 6:-

(vi) Whether the plaintiffs are entitled to any other relief?

13.1 In light of the facts of the case, this Court is of the view that no further or alternative relief need be granted.

As a result, this suit is decreed as follows :-

(i) The Plaintiff has proved her title to the suit schedule property.

(ii) That the permanent injunction is granted by way of restraining the defendant/his men/his agents/respresentatives from interfering plaintiff's peaceful possession in the suit schedule property.

(iii) No cost.

(iv) No other relief.

Dictated to the Steno – Typist, typed by her, corrected, and pronounced by me in open court on this the 22nd day of June 2026

Sd/-M.Siva Rajesh,
District Munsif
Sathankulam

Plaintiff side witness:-

1. P.W. 1- Evitta Rani

Plaintiff side documents:-

1. Ex.A1 – Sale Deed Document No.147 of 2021 dated 29.01.2021, executed and registered in the office of the Sub-Registrar, Kommadikottai, under which the plaintiff's husband purchased the property. (Original)
2. Ex.A2 – Settlement Deed Document No.480 of 2021 dated 08.03.2021, executed by the plaintiff's husband Immanuel Dayanandan in favour of the plaintiff and registered in the office of the Sub-Registrar, Kommadikottai, whereby he settled the property upon her (Original)
3. Ex.A3 - Computerised Patta pertaining to the suit schedule property. (Internet Download Copy)
4. Ex.A4 - Land tax pertaining to the suit schedule property. (2nos) (Original)
5. Ex.A5 – Adangal Register pertaining to the suit schedule property dated 27.03.2023. (Original)

Defendant side witness Nil:-**Defendant side documents:-**

1. Ex.B1- FMB in respect to Survey no : 122

Sd/-M.Siva Rajesh,
District Munsif
Sathankulam

District Munsif Court,
Sathankulam,
O.S.No.25/2024
Fair/Draft Judgment
Dated : 22.06.2026