

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
OTTAPIRATAM**

PRESENT: Tmt.A.Jeyanthi, M.L.,
District Munsif cum Judicial Magistrate,
Ottapidaram

Dated this the 28th day of March 2023 Tuesday

O.S.No. 60/2022

CNR. No. TNN04-003210-2022

1) P.Rani
2) B. Peramavathy

..Plaintiffs

/vs/

1) P. Madhathiammal
2) P. Soundrarajan
3) P. Subbulakshmi
4. C. Jeyachandran

..Defendants

This suit is coming on this day for final hearing before me in the presence of Thiru. Sarvagan Prabhu, Counsel for the Plaintiff and Thiru. Mr.P. Paramasivam counsel for D2 appeared and subsequently D2 remained exparte . D1, D3, D4 received summon and failed to appear before this court, hence they were set exparte and remained exparte.Upon hearing the counsel for the plaintiff and perusing the case records this court delivers the following:

JUDGMENT

The Plaintiff has filed this Plaint under Order 7 Rule 1 of Civil Procedure Code to declaring the plaintiffs are title holder of the suit scheduled property including the shares of the defendants which the plaintiffs perfect title over the shares of the

defendants through adverse possession and pass an order of permanent injunction restraining the defendants , men and their servants not to disturb the peaceful possession and enjoyment of the suit scheduled property by the plaintiffs and directing the defendant to pay the cost of the suit .

The averments stated in the plaint in brief:-

1) The suit property is situated in S.No. 86/1M at Parivillikottai village, Ottapidaram Taluk, Thoothukudi District which is within the jurisdiction of this court. The suit scheduled property originally belong to grandmother of plaintiffs one Sudalaimadi. The said Sudalaimadi died intestate leaving behind her legal heirs I.e, the above defendants and the father of plaintiffs shanmugam in the year 1999.

2) The suit scheduled property was handed over to the said Sudalaimadi as a vacant in the year 1997 by the revenue department by virtue of the Patta. In the said vacant site, the said Sudalaimadi put up a thatched roof house and resided in the suit scheduled property along with the father of plaintiffs till her death. After the death of the Sudalaimadi there was an oral partition among the legal heirs of the said Sudalaimadi in connection with the suit scheduled property equally. When the property was orally partitioned among the legal heirs of Sudalaimadi the house was in a dilapidated condition. Whereas plaintiffs father Shanmugam took steps and demolished the dilapidated house and constructed a tiled house and resided. The father of plaintiffs was in possession there and enjoyment of the suit scheduled property. The said Shanmugam died on 23.09.2006. During his life time of the said

Shanmugam , he obtained the electricity service connection in his name and paid house tax in his name for the suit scheduled property and enjoyed the same openly.

3) The defendants having knowledge that the father of plaintiffs was in possession and enjoyment of the suit scheduled property including their partitioned share. But the defendants never interrupted and never claimed right over their partitioned share. After the death of the father of plaintiffs from the year 2006 plaintiffs and their mother are in possession and enjoyment of the suit scheduled property. The plaintiffs and their family were in enjoyment of the suit scheduled property openly for more than nineteen years, though there was a oral partition among the legal heirs of Sudalaimadi the defendants having knowledge that the total suit scheduled property is in possession and enjoyment of plaintiffs and their family never claimed their share or right over the suit scheduled property. The Plaintiffs perfect their title over the share of the defendants by adverse possession.

4)The mother of plaintiffs died on 20.07.2019. After the death of plaintiffs mother on 21.10.2019 the defendants tried to disposes the plaintiffs from the suit scheduled property. But with the support of neighbors the act of defendants were prevented. The defendants inspite of oral partition of their shares in the suit scheduled property, they never claimed any right over their shares in the suit scheduled property and allowed the plaintiffs and their family members to enjoy their shares. Therefore the plaintiffs perfect title over the shares of partition property of the defendants through adverse possession. Because of the act of defendants and

plaintiffs are put under great hardship. Hence the plaintiffs have got no other way than to file the suit.

5) Summons were served to the defendant and vakalath was filed on behalf of the D2 defendant by their counsel but subsequently the D2 defendant is set exparte and remained exparte. D1, D3, D4 received summon and failed to appear before this court, hence they were set exparte and remained exparte.

6) On plaintiffs side, the 1st Plaintiff Rani was examined as PW1 and Exhibit A1 to A7 were marked. No oral and documentary evidence on the side of defendant has been adduced. Plaintiff side arguments heard and documents perused.

Point for determination :

Whether the suit is entitled to be allowed? or not?

7) The plaintiffs have filed the present suit for declaring the plaintiffs as title holder of the suit scheduled property including the shares of the defendants which the plaintiffs perfect had title over the shares of the defendants through adverse possession and pass an order of permanent injunction restraining the defendants, men and their servants not to disturb the peaceful possession and enjoyment of the suit scheduled property by the plaintiffs and directing the defendant to pay the cost of the suit.

8) I have heard the learned counsel for the plaintiff and Perused the records. The 1st Plaintiff Rani was examined as PW1. She filed Proof Affidavit and Exhibit A1 to A7 were marked. Exhibit A1 is the copy of Patta standing in the name of

Sudalaimadi , Exhibit P2 it the Copy of death certificate of Shunmugam , Exhibit P3 is the Death certificate of valliammal , Exhibit P4 is the Water tax receipt in the name of plaintiff's mother name Valliammal after the death of their father Shanmugam, Exhibit P5 is the House tax receipt in the name of plaintiff's mother name Valliammal after the death of their father Shanmugam, Exhibit P6 is the Original House tax demand draft from the Municipal Office, Parivallikottai, Exhibit P7 is the Legal heir certificate were marked. The document relied upon by the plaintiff would show that they are in possession.

9) Therefore on perusal of oral and documentary evidence of PW1 and Exhibits A1 to A7, it is seen that the plaintiff has clearly proved their claim as pleaded in the plaint by producing Exhibit A1 to A7 as the pleadings and the evidence of the plaintiff stands unrebutted. The defendants failed to appear before this court to prove that the plaintiff's claim is false and remained exparte.

10) Hence the point is answered in the favour of the plaintiff. In the result, the SUIT IS DECREED, the plaintiffs are entitled for declaration as title over the shares of the defendants through adverse possession and also entitled for permanent injunction restraining the defendants , men and their servants not to disturb the peaceful possession and enjoyment of the suit.

In the result, this suit is allowed , that there is no cost.

Dictated by me to the Typist and she typed directly in the computer corrected

by me in my Laptop and pronounced by me in the open court, on this 28th day of March 2023.

District Munsif cum Judicial Magistrate,
Ottapidaram

Witness on behalf of the Plaintiff:-

PW1 - Rani

List of Documents on behalf of the Plaintiff:-

Ex.A.1	05.03.2021	Copy of patta in the name Sudalaimadi
Ex.A.2	05.03.2021	Death certificate of Shunmugam
Ex.A.3	22.12.2021	Death certificate of Valliammal (Original)
Ex.A.4	22.12.2021	Water tax receipt (Original)
Ex.A.5	22.12.2021	House tax receipt (Original)
Ex.A.6	22.12.2021	House tax demand draft (Original)
Ex.A.7	22.12.2021	Legal heir certificate

Witness on behalf of the Defendant:-

-Nil-

List of Documents on behalf of the Defendant:-

-Nil-

District Munsif cum Judicial Magistrate,
Ottapidaram

District Munsif cum Judicial Magistrate Court,

Ottapidaram

O.S. No. 60/2022

Draft/Fair JUDGEMENT

DATED: 28.03.2023