



TNTU080000172022

Presented on : 09.02.2022  
Registered on : 09.02.2022  
Decided on : 10.03.2026  
Duration : 4 years, 1 Months, 1 days

**IN THE COURT OF DISTRICT MUNSIF, VANIYAMBADI**

Presided Over by THIRU. V. ESHWAR, B.E., L.L.B.,

**OS.12/2022**

**CNR.No.TNTU080000172022**

Plaintiff:

**S. Akbar Kausar**

Versus

Defendants:

- 1. The Commissioner, Vaniyambadi Municipality**
- 2. Thamodharan**

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Advocate for Plaintiffs: **Mr. R.V. Varatharajan**

Advocate for Defendants: **D1- Mr. R. Nithyanantham**

**D2 – Set Exparte**

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**Claim: Suit for Permanent Injunction**

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## **JUDGMENT**

**(Delivered on 10.03.2026)**

### **I. Overview**

This is a civil suit for a permanent injunction filed by the plaintiff against the defendants, seeking to restrain the defendants and their men from trespassing into the suit schedule property and from laying any road therein.

### **II. Summary of Plaintiff averments:**

2. The plaintiff avers that he and his family own approximately 10 acres of land situated in Vaniyambadi Town, Ward-G, Block-17, encompassing various Town Survey Numbers including 11/13, 11/12, 11/6B, 11/26, 11/31, 11/27, 6/1B part, 11/3A13A, 11/3A13B, 11/6A, 11/36, 11/3A2B part, 11/27, 11/28, 11/29, and 6/1c. The plaintiff has established a medicinal herbal garden, notably cultivating 'Kasini Keerai' (chicory), which has received state recognition, and maintains a grove of bamboo and other sacred trees. The plaintiff asserts absolute ownership, possession, and enjoyment of the suit property through valid sale deeds and revenue records.

3. The plaintiff further avers that on 07.02.2022 at about 4:00 PM, the second defendant and his men trespassed into the plaintiff's patta land, attempting to lay a road, allegedly at the behest of the first defendant. Upon



inquiry, the plaintiff learned that road-laying works were sanctioned under the Kalaignar Nagarpura Membattu Thittam for nearby Shanthi Nagar (Ward 31) and Yeppa Nagar (Ward 32), and the defendants were attempting to unlawfully extend this road into the plaintiff's private property. Consequently, the plaintiff filed the present suit to protect his lawful possession.

**III. Summary of Written statement averments:**

4. The first defendant filed a written statement denying the plaintiff allegations as false and frivolous. The first defendant admits that a work order was issued to the second defendant on 13.02.2021 to lay a paver block road in Ward 31, Shanthi Nagar, at an estimated cost of Rs. 19.40 lakhs. The first defendant contends that on 07.02.2022, a temporary tipper lorry driver employed by the second defendant mistakenly dumped wet mix gravel on the plaintiff's adjacent land instead of the designated work site.

5. The first defendant further states that upon realizing the error, the second defendant removed the materials and informed the plaintiff. The incident was also reported to the District Collector, Tirupathur, on 08.02.2022. The first defendant categorically asserts that the Municipality never took any steps to lay a road on the plaintiff's property, has no intention to do so, and that there is no valid cause of action for the suit.



#### **IV. Issues Framed**

6. The following issues were framed by this Court on 03.07.2025 for determination:

**Issue No.1** : Whether the plaintiff proves his lawful possession and enjoyment of suit schedule Property?

**Issue No.2** : Whether the cause of action, as alleged by the plaintiff is true and valid?

**Issue No.3** : Whether defendant proves that the 2nd defendant's driver mistakenly deposited materials on the plaintiff's property and there was never any intention to form a road on the said Property?

**Issue No.4** : Whether Plaintiff is entitled to the relief of Permanent injunction as prayed for?

**Issue No.5** : To what other relief, if any, plaintiff is entitled?

#### **V. Arguments of the Parties**

7. The learned counsel for the plaintiff argued that the plaintiff is the absolute owner in possession of the suit property, which is supported by Ex.A1 to Ex.A3. It was submitted that the act of dumping construction materials on the plaintiff's patta land amounts to an actionable trespass, necessitating a decree of



permanent injunction to secure the property against future encroachments by the civic body.

8. The learned counsel for the first defendant argued that the plaintiff's title and possession are not disputed, but the suit is entirely devoid of cause of action. Relying on the admissions elicited in the cross-examination of PW-1, the counsel emphasized that the dumping was a mere accident by an independent contractor's driver, the materials were immediately cleared, and there was never any administrative proposal to lay a road on the plaintiff's land. Consequently, it was prayed that the suit be dismissed.

#### **VI. Discussion and Reasons for decision**

9. The chronological facts of the case, as established by the pleadings and evidence, reveal that the plaintiff is the owner of the suit schedule property. On 13.02.2021, the first defendant issued a work order to the second defendant for laying a road in Ward 31. On 07.02.2022, construction materials were dumped on the plaintiff's property by the second defendant's personnel. The plaintiff raised an objection, and the materials were subsequently removed. Apprehending further trespass, the plaintiff instituted the present suit on 09.02.2022.

10. On the side of the plaintiff, the plaintiff examined himself as PW-1. In his chief examination, he reiterated the plaint averments, asserting his title,



possession, and the alleged trespass by the defendants on 07.02.2022. During cross-examination, PW-1 admitted that a work contract was indeed given to the second defendant for Ward 31. Notably, PW-1 admitted that the second defendant's driver mistakenly dumped the gravel, that the materials were subsequently removed, and that he was informed of the same. PW-1 also admitted that the defendants have taken no steps to lay a road on his property to date and that the property remains in his peaceful possession.

11. The plaintiff marked three documents as Exhibits A1 to A3. Ex.A1 is the certified copy of the Sale Deed dated 30.05.2000. Ex.A2 is the certified copy of the Sale Deed dated 16.03.2006. Ex.A3 is the computerized Town Survey Register extract dated 09.02.2022.

12. On the side of the defendants, the Town Planning Inspector of Vaniyambadi Municipality was examined as DW-1. In his chief examination, DW-1 reiterated the contents of the written statement, deposing that the dumping of wet mix gravel on 07.02.2022 was a bona fide mistake by the second defendant's driver, which was rectified immediately by removing the materials. During cross-examination, DW-1 explicitly admitted that the suit property belongs to the plaintiff. DW-1 further conceded that no written document was filed to prove that the plaintiff was informed about the removal of the stones, but maintained that there is no scheme or intention to lay a road in



the suit property. No documentary evidence was marked on the side of the defendants.

*As to Issue 1: Whether the plaintiff proves his lawful possession and enjoyment of suit schedule Property?*

13. The burden of proving lawful possession rests upon the plaintiff under Section 101 of the Indian Evidence Act, 1872. The plaintiff has produced Ex.A1 and Ex.A2 (Sale Deeds) and Ex.A3 (Town Survey Register extract) to substantiate his claim. The first defendant's witness, DW-1, has categorically admitted the plaintiff's title and possession during cross-examination stating, "இந்த வழக்கில் சம்மந்தப்பட்ட சொத்தானது வாதிக்கு பாத்தியப்பட்டது தான் என்றால் சரிதான்" (Translation: "It is indeed correct if the property involved in this case belongs to the plaintiff.").

14. Furthermore, PW-1's possession remains undisturbed as per his own admission, who deposed as: "வழக்கு சொத்து இன்று வரை என்னுடைய சுவாதீன அனுபவத்தில் தான் இருந்து வருகிறது என்றால் சரிதான்" (Translation: "It is correct to say that the suit property remains in my possession and enjoyment until today."). In light of the cogent documentary evidence and the clear admission by the defendant, this Court finds that the



plaintiff has successfully proved his lawful possession and enjoyment over the suit schedule property. Thus, **Issue No. 1 is answered in the affirmative.**

As to Issue 2 and 3: Whether the cause of action is true and valid? & Whether the 2nd defendant's driver mistakenly deposited materials without intention to form a road?

15. These issues are interconnected and are taken up together for consideration. The core dispute revolves around the intent behind the dumping of gravel on 07.02.2022. The plaintiff alleged a deliberate attempt to lay a road, while the first defendant pleaded an inadvertent mistake by the contractor. During the cross-examination of PW-1, the plaintiff made a fatal admission regarding the defendant's plea. PW-1 deposed: "2ம் பிரதிவாதியின் தற்காலிக டிப்பர் லாரி ஓட்டுனர் தவறுதலாக சல்லி கற்களை கொட்டினார்கள் என்றால் சரிதான்... மேற்படி ஜல்லிக்கற்களை அப்புறப்படுத்திவிட்டு எனக்கு தகவல் தெரிவித்தார்கள் என்றால் சரிதான்" (Translation: "It is correct that the temporary tipper lorry driver of the 2nd defendant mistakenly dumped the gravel stones... It is also correct that they informed me after removing the said gravel stones.").

16. This clear, unambiguous admission by the plaintiff (PW-1) corroborates the first defendant's defense in its entirety. Facts admitted need not



be proved. The plaintiff further admitted that no subsequent steps were taken by the defendants to lay a road, which is extracted as follows, "வழக்கு சொத்தில் இன்றுவரை பிரதிவாதிகள் தரப்பில் சாலை அமைக்க எந்த ஒரு நடவடிக்கையும் எடுக்கவில்லை என்று சொன்னால் சரிதான் தற்போது எதுவும் இல்லை" (Translation: "It is correct to state that the defendants have, to date, taken no steps to construct a road on the suit property, and presently, there is none.").

17. DW-1 also affirmed that there is no plan to lay a road in the suit property, who deposed as "தாவா சொத்தில் ரோடு அமைக்கும் திட்டம் எதுவும் இல்லை என்றால் ஆமாம்". Therefore, the Court holds that the depositing of materials was a mistake and there was no administrative intent to form a road on the plaintiff's property. Consequently, while the physical act on 07.02.2022 provided an initial cause of action for the plaintiff to approach the Court, the apprehension of a continuing threat is unsubstantiated. Thus, **Issues 2 and 3 are answered accordingly.**

*As to Issue 4 and 5: Whether Plaintiff is entitled to the relief of Permanent injunction? & To what other relief?*

18. The relief of permanent injunction under Section 38 of the Specific Relief Act, 1963, is an equitable remedy granted to prevent the breach of an



obligation existing in favor of the plaintiff. It is settled law that a plaintiff in lawful possession is entitled to protect such possession against arbitrary interference. Although this Court has concluded that the initial dumping was an error and the Municipality has no present scheme to lay a road, the fact remains that a physical trespass occurred on the plaintiff's undisputed patta land.

19. The first defendant, being a statutory body, has officially conceded the plaintiff's title and undertaken on oath that they have no intention to lay a road on the suit property. To balance the equities, and to safeguard the plaintiff's absolute right to peaceful possession from any future administrative oversight or interference, it is just and necessary to grant a decree of permanent injunction. The injunction will bind the defendants to their own stated position. However, considering the bona fide mistake and subsequent rectification by the defendants, the plaintiff is not entitled to costs. Issues 4 and 5 are answered in favor of the plaintiff.

### **VII. Result**

20. In the result, the **suit is decreed**. A decree of **permanent injunction is granted** in favor of the plaintiff, restraining the defendants, their men, agents, or anyone claiming through them from trespassing into the suit schedule property or forming any road therein. Considering the facts and circumstances of the case, both parties shall bear their **own costs**.



*Directly typed by me in my official laptop, corrected and pronounced by me in the open court on this the 10th day of March , 2026.*

**District Munsif,  
Vaniyambadi.**

**APPENDIX**

<b>Plaintiff's Side Witnesses:</b>	PW-1: Akbar Kausar
<b>Plaintiff's Exhibits:</b>	<b>Ex.A1:</b> Certified copy of the Sale Deed dated 30.05.2000 (Doc. No. 1607/2000) <b>Ex.A2:</b> Certified copy of the Sale Deed dated 16.03.2006 (Doc. No. 1044/2006) <b>Ex.A3:</b> Computerized Town Survey Register extract (14 items) dated 09.02.2022
<b>Defendant's Side Witnesses:</b>	DW-1: Sivakumar
<b>Defendant's Exhibits:</b>	Nil

**District Munsif,  
Vaniyambadi.**