

IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: TMT. K.INBARANI, B.A.,B.L.,
(J.O.Code - TN02350)
DISTRICT MUNSIF, KATPADI

Monday, this the 06th Day of July – 2026

O.S.No. 83 of 2018
(CNR.No.TNVL23-000120-2018)

Shanmugam

.....Plaintiff

-Vs-

1. Dharmalingam

2. Chenthamizh Selvan

3. Murugesan

.....Defendants

This Suit has come up today before this Court for Judgment, and in this case, the Plaintiffs were appeared through their Advocate Counsels Thiru. G. Seralathan and, the Defendants were appeared through their Advocate Counsel Thiru. T. Munisamy. Upon hearing both side of arguments and upon perusing the case records & evidence, and having stood over consideration till this day, this Court delivers the following:-

JUDGMENT

The Suit is filed by the Plaintiff for Mandatory Injunction and for recovery of possession and to directing the 1st and 3rd defendant to demolish the encroached place in

the plaintiffs area described in the 'B' schedule of property an order of mandatory injunction and for recovery of possession.

1. **The concise of the Plaint averments is as follows:-**

1.1 The plaintiff's case is that the suit 'A' Schedule property is a Grama Natham house site comprised in old Survey No.599, subsequently subdivided as Survey No.599/58, for which Patta No.791 was granted in his favour by the Revenue Authorities on 15.03.1993. Ever since the grant of patta, the plaintiff has been in lawful possession and enjoyment of the property. According to the plaintiff, the defendants own adjoining properties situated on the western side of the suit property.

1.2 It is the specific case of the plaintiff that during August 2017, the defendants unlawfully encroached upon portions of his property and put up permanent constructions without any manner of right, title or interest. The first defendant allegedly encroached an extent of 105 square feet, the second defendant another 105 square feet and the third defendant 225 square feet, as described in the B, C and D Schedule properties and shown in the rough sketch annexed to the plaint. Though the plaintiff repeatedly objected to the illegal encroachments and requested the defendants to remove the constructions, they failed to comply. The plaintiff thereafter approached the Revenue Authorities, obtained certified copies of the patta and caused a legal notice to be issued.

1.3 According to the plaintiff, the defendants have no lawful right over the encroached portions of the suit property and their occupation is wholly unauthorized. As

the illegal constructions continue to remain in the plaintiff's property, he has been deprived of peaceful enjoyment of his land. Hence, the plaintiff has filed the present suit seeking a decree of mandatory injunction directing the defendants to remove the encroachments and demolish the unauthorized constructions, recovery of possession of the encroached portions, and costs of the suit.

2. **The concise of the Written Statement filed by the Defendants is as follows:-**

2.1 The defendants filed a common written statement denying all the plaintiff allegations as false, frivolous and devoid of merits. According to them, the suit property is a Grama Natham poramboke land and the defendants and their predecessors have been residing in their respective house sites for several decades. They contend that the plaintiff has no exclusive right over the property claimed in the plaintiff and that the allegations of encroachment are baseless.

2.2 The defendants further state that their predecessors acquired the property under a sale deed dated in the year 1934 and, thereafter, they have been in continuous possession and enjoyment of the respective house sites without any interruption. They specifically deny that they have encroached upon any portion of the plaintiff's property or that they have put up any unauthorized construction in the plaintiff's land. According to them, the houses were constructed long ago within their own boundaries and they have been paying the necessary taxes and enjoying the properties as owners.

2.3 The defendants also contend that the plaintiff has failed to produce proper title documents to establish his exclusive ownership or possession over the suit property. According to them, the plaint has been filed on the basis of false and fabricated allegations only to disturb their long-standing possession. Therefore, they pray that the suit for mandatory injunction and recovery of possession be dismissed with exemplary costs.

3. **On consideration of the Pleadings, the following issues were framed on 13.02.2019:-**

- (i) Whether the plaintiff is entitled for the relief of mandatory injunction with respect to the 'B', 'C', and 'D' schedule properties as prayed for?
- (ii) Whether the plaintiff entitled for recovery of possession with respect to the 'B', 'C', and 'D' schedule properties as prayed for?.
- (iii) To what other relief the plaintiff is entitled?

4. In order to prove the Plaintiffs case, the 1st plaintiff was examined as P.W-1 by way of filing Proof Affidavit, and Ex.A.1 to Ex.A.7 were marked through him and he was cross examined. The 3rd defendant was examined as D.W-1 by way of filing Proof Affidavit, and Ex.B.1 to Ex.B.5 were marked through him and he was cross examined.

5. The Learned Advocate appeared on behalf of the Plaintiffs argued that the suit property is the self-acquired property of the 1st plaintiff and the plaintiffs proved possession through documentary evidence. It was further argued that the defendant has

no legal right to interfere with the plaintiffs' peaceful possession and enjoyment of the property.

6. **Answering to the Issues No.1 and 2:-**

6.1 The plaintiff has pleaded that the suit property is a Grama Natham house site comprised in old Survey No.599, subsequently subdivided as Survey No.599/58, for which Patta No.791 was granted in his favour on 15.03.1993 by the competent Revenue Authorities. According to him, the defendants own adjacent properties situated on the western side and, during August 2017, they unlawfully entered into the plaintiff's property, encroached upon different extents and constructed permanent residential structures. The plaintiff would further state that despite repeated requests to remove the encroachments, the defendants failed to do so, compelling him to approach the Revenue Authorities and thereafter this Court.

6.2 To substantiate his case, the plaintiff examined himself as PW1 and marked Ex.A1 to Ex.A7. Ex.A1 is the copy of the original patta dated 15.03.1993 and Ex.A2 is the certified copy of Patta No.791. Ex.A3 is the legal notice issued to the Tahsildar seeking action with respect to the suit property. Ex.A4 is the house tax receipt, while Ex.A5 and Ex.A6 are the Family Card and Aadhaar Card respectively. Ex.A7 is the rough sketch indicating the alleged encroachments by each of the defendants. These documents consistently support the plaintiff's version regarding the identity of the suit property and the nature of the relief claimed.

6.3 During cross-examination, PW1 admitted that the original patta had not been produced before the Court and explained that the same had been deposited with the bank while obtaining a loan. He also admitted that the original title deed standing in the name of his grandmother had not been produced for the same reason. This Court finds that the explanation offered by PW1 is natural and acceptable. Merely because the originals have not been filed, the plaintiff's claim cannot be rejected when certified copies have been produced and there is no material to show that the patta relied upon by the plaintiff has been cancelled or declared invalid by any competent authority.

6.4 The defendants have denied the entire case of the plaintiff. Their principal defence is that they and their predecessors have been residing in the property for several decades on the strength of a sale deed executed in the year 1934. They have further contended that the suit property is Grama Natham poramboke land and that they have not encroached upon any portion of the plaintiff's property. They also contend that the plaintiff has filed the suit by suppressing material facts.

6.5 In support of their defence, the defendants examined DW1 and marked Ex.B1 to Ex.B5. Ex.B1 is the sale deed dated 1934, while Ex.B2 to Ex.B5 consist of house tax receipts, electricity service records, encumbrance certificate and family card. However, on careful scrutiny, it is seen that Ex.B1 does not mention the survey number of the property. DW1 has categorically admitted in his cross-examination that no survey

number is found in Ex.B1. Therefore, Ex.B1 does not conclusively establish that the property covered thereunder is the very property now in dispute.

6.6 Similarly, the tax receipts, electricity connection and family card produced by the defendants only establish that they are residing in the houses. Those documents do not establish the boundaries, measurements or identity of the property. They cannot be treated as title documents. Therefore, these documents are not sufficient to disprove the plaintiff's case of encroachment.

6.7 The Court finds that the most important and reliable evidence in this case is the report and plan submitted by the Advocate Commissioner. The Commissioner was appointed by this Court for local inspection. The Commissioner inspected the suit property on 18.02.2021 in the presence of the parties with the assistance of the Government Surveyor and the Village Administrative Officer. The Commissioner's report clearly states that the property inspected falls in Survey No.599/58 and that measurements were taken scientifically with the assistance of the competent revenue officials.

6.8 The Commissioner has specifically reported that the first defendant has encroached an extent of 84 square feet, the second defendant has encroached an extent of 84 square feet and the third defendant has encroached an extent of 164 square feet in the plaintiff's property. The report also contains a detailed sketch identifying the exact encroached portions. The findings are based upon actual field measurement and not

upon mere assumptions. Hence, the report inspires confidence and deserves substantial evidentiary value.

6.9 During cross-examination, DW1 admitted that the Advocate Commissioner visited the property pursuant to the orders of this Court. He further admitted that no objection whatsoever had been filed against the Commissioner's report. The defendants have neither challenged the report nor sought appointment of another Commissioner or re-measurement of the property. Such conduct assumes significance because if the Commissioner's report had been incorrect, the defendants would have immediately challenged the same before this Court. Their failure to do so lends further credibility to the Commissioner's findings.

6.10 The Advocate Commissioner was also examined before the Court. He has categorically deposed that the measurement was carried out with the assistance of the Government Surveyor and Village Administrative Officer and that the encroachments were identified based upon official survey measurements. Nothing substantial has been elicited in his cross-examination to discredit either his report or his testimony. His evidence remains unshaken and inspires confidence.

6.11 It is well settled that the report of an Advocate Commissioner prepared with the assistance of qualified Government Survey Officials constitutes valuable evidence for identifying the property and determining encroachment. In the present case, the report is corroborated by the plaintiff's patta and other documentary evidence. On the

contrary, the defendants have not produced any field measurement sketch, patta, survey records or any revenue document contradicting the Commissioner's findings.

6.12 The contention of the defendants that they have been residing in the property for several decades cannot by itself defeat the plaintiff's claim. Mere long possession does not legalise an encroachment. Even assuming that the defendants have been residing there for many years, they cannot claim any legal right over the portions found by the Commissioner to be situated within the plaintiff's patta land. A person cannot retain possession over another's property merely because he has put up a construction.

6.13 The evidence of PW1, the documentary evidence marked on his side and the independent report of the Advocate Commissioner collectively establish that the defendants have encroached upon portions of the plaintiff's property. The defendants have failed to rebut this evidence by producing any convincing material. Mere denial of encroachment without supporting documentary evidence cannot outweigh the scientific measurement conducted by the Commissioner with the assistance of Government officials. Once the encroachment is proved, the plaintiff is entitled to restoration of possession. Since permanent constructions have been put up over the encroached portions, mere delivery of possession cannot be effectively granted unless the unauthorized constructions are first removed. Therefore, the relief of mandatory injunction directing demolition of the encroached structures is only consequential and

incidental to the relief of recovery of possession. Both reliefs are inseparable and necessarily flow from the proved act of encroachment. Having carefully appreciated the entire oral and documentary evidence available on record, this Court is of the considered view that the plaintiff has successfully proved his lawful right over the suit property and has further established that the defendants have unlawfully encroached upon portions of the same. The unchallenged report of the Advocate Commissioner completely supports the plaintiff's case. The defendants have failed to produce satisfactory evidence to rebut the Commissioner's findings or establish any lawful right over the encroached portions.

6.14 Accordingly, this Court holds that the plaintiff is entitled to a decree directing the defendants to remove the unauthorized constructions standing on the encroached portions by way of mandatory injunction and thereafter to hand over vacant possession of the encroached portions to the plaintiff by way of recovery of possession. The points for determination are answered in favour of the plaintiff.

7. **Answering to the Issues No. 3:-**

In view of the above findings recorded for the Issues-1&2, this Court concludes that these Issues to the effect that the Plaintiffs are not entitled for any other reliefs. Accordingly, the Issues No. 3 is answered.

8. **Result:-**

In the result, the suit is decreed No cost. The defendants are directed to remove the unauthorized constructions put up in the encroached portions of the plaintiff's property

and deliver vacant possession of the respective encroached portions to the plaintiff within two (2) months from the date of this Judgment. In default, the plaintiff is at liberty to recover possession and remove the encroachments through due process of law in execution proceedings, at the cost of the defendants.

-//Dictated by me to the Steno-typist, and directly typed by him in Computer, and after rectification taken print out and pronounced by me in the Open Court, on this the 06th Day of July 2026.//-

(Sd/-)..K.Inbarani
DISTRICT MUNSIF
KATPADI

Plaintiffs side Witnesses:-

P.W-1 – Shanmugam (the 1st plaintiff)

Plaintiffs side Exhibits:-

Ex.A-1	-	Certified xerox copy of the patta No.791
Ex.A-2	31.10.2017	Copy of the Legal Notice issued by the plaintiff to the Tahsildar.
Ex.A-3	30.01.2018	Original House Tax Receipt
Ex.A-4	-	Family Card Xerox Copy
Ex.A-5	-	Aadhar Card Xerox Copy
Ex.A-6	-	Rough Sketch Map
Ex.A-7	-	Guideline Value Xerox Copy

Defendants side Witnesses:-

D.W-1 – Murugesan (the 3rd Defendant)

Defendants side Documents:-

Ex.B-1	-	Sale Deed infavour of the defendant in 1934
Ex.B-2	-	House Tax Receipt Stands in the name of the defendant
Ex.B-3	-	E.B. Card Stands in the Name of the defendant
Ex.B-4	-	Encombarance Certificate
Ex.B-5	-	Ration Card of the defendant

(Sd/-)..K.Inbarani
DISTRICT MUNSIF
KATPADI