

IN THE COURT OF THE DISTRICT MUNSIF, VANUR
PRESENT. THIRU.D.PONVENTHAN., B.Tech., M.L.,
District Munsif, Vanur

Thursday, the 26th day of March 2026

(2057-திருவள்ளூர்வராண்டு, விசுவாசு வருடம், பங்குனி மாதம்

வியாழக்கிழமை 12-ம் நாள்)

O.S.No: 14/2017

CNR NO:-TNVP-35-000056-2025

Ramadoss

.... Plaintiff

//Vs//

1. Selvarasu

2. Surgunam.

.... Defendants

This suit came up for final hearing on 18.03.2026 in the presence of Learned counsel Mr.V.Anandavijayan for plaintiff, Learned counsel Mr.E.Sarwar khan for defendants, upon hearing both sides and on perusing the records and having stood over for consideration till this day, this Court delivers the following:

JUDGMENT

1. This instant suit is filed seeking for the relief of declaration of plaintiff's Easement Right over suit "B" schedule property.

2. PLAINT IN CRUX:-

2.1) The suit property originally belongs to one Manicka Padaiyatchi and the same was purchased by one Govindarasu through sale deed dated 23.06.1956. The said Govindarasu was been in possession and enjoyment of the suit property and

died. Subsequent to the death of the said Govindarasu, his only son named Ramachandran was been in possession and enjoyment of the suit property. The plaintiff and 1st defendant are the sons of the said Ramachandran. The said Ramachandran and his sons, the plaintiff and 1st defendant had partitioned the properties through partition deed dated 25.09.2006 wherein "A" schedule property was allotted to plaintiff's father named Ramachandran, "B" schedule property was allotted to plaintiff and "C" schedule property was allotted to 1st defendant. During the execution of the partition deed dated 25.09.2006, it was agreed by all parties that everyone shall leave path way for access to others. A portion of the "C" schedule property in partitioned dated 25.09.2006 is mentioned as "B" schedule property in plaint. The "A" schedule property in the plaint schedule of property is a portion of "B" schedule property in partition deed dated 25.09.2006.

2.2) The "B" schedule property is a common path way for the plaintiff and defendant. The plaintiff can access his "A" schedule property only through "B" schedule property. The "B" schedule property is a common pathway to an extent of 23 feet width and 175 feet length. During March 2017, the defendants have caused interference to the plaintiff from using the "B" schedule property. The plaintiff is running cashew processing company in "A" schedule property and he could access the "A" schedule property only through "B" schedule property. Due to the interference of defendants the plaintiff could not access his "A" schedule property. Hence the suit for declaration of Easement right over "B" schedule property and for Permanent Injunction.

3. WRITTEN STATEMENT OF 1st DEFENDANT IN CRUX: (ADOPTED BY 2nd DEFENDANT)

The defendants denied the averments of the plaintiff and has stated that the suit “B” schedule property is not a common pathway and was never been used as common pathway at any point of time. The plaintiff is having alternative path to access the “A” schedule property. The plaintiff has sold out his lands situated around the “A” schedule property and has instituted the suit with false facts. There is no common pathway in the “B” schedule property and sought for dismissal of the suit.

4. On considering the pleadings of both sides, the following issues were framed on 09.01.2023.

1.	Whether the plaintiff is having easementary right over the “B” schedule property?
2.	Whether the plaintiff is entitled for easementary right of declaration with regard to “B” schedule mentioned property?
3.	Whether the plaintiff is entitled for permanent injunction as prayed for?
4.	To what other relief the plaintiff is entitled for?

5. On the side of plaintiff, the plaintiff was examined as PW-1 and Ex.A.1 to Ex.A.5 were marked through him. One Mr.Venkatesan was examined as PW-2 and and due to non appearance for cross examination, the evidence of PW-2 was eschewed by this court by order dated 26.07.2024. One Mr.Venkatesan was examined as PW-3 and no exhibits was marked through him. On the side of defendants, the 1st

defendant was examined as DW-1 and no exhibits was marked through him. One Mr.Vijayakumar was examined as DW-2 and no exhibits was marked through him.

6. The learned Advocate Commissioner was examined and the report of the advocate commissioner and plan was marked as Ex.C.1 & Ex.C.2.

7.DOCUMENTS:-

Ex.A.1 is the sale deed dated 23.06.1956 executed by Manickam Padaiyatchi in favour of Govindarasu Kounder. On perusal of Ex.A.1 it reveals that, the property in Survey No.278/5 to an extent of 1.76 acre in Pommaiyarpalaiyam village was sold to Govindarasu Kounder by Manickam Padaiyatchi. Ex.A.2 is the partition deed dated 25.09.2006 executed between plaintiff's father named Ramachandran, plaintiff, 1st defendant and one minor girl named Keerthana. On perusal of Ex.A.2, it reveals that, the suit "A" schedule property was allotted to plaintiff in the Ex.A.2 partition deed as "B" schedule property. Further the suit "B" schedule property was allotted to the 1st defendant as "C" schedule property in Ex.A.2 partition deed. Ex.A.3 is the copy of caveat petition filed by the defendants against the plaintiff. Ex.A.4 is the Rough Sketch of the suit properties. Ex.A.5 is the 2 photographs and one compact disc.

8. Heard Both sides. Records perused.

9. ISSUE No.1 & 2:-

9.1) It is admitted by both sides that, the suit properties originally belongs to one Manickam Padaiyatchi and the same was sold out to plaintiff's and 1st defendant's grand father named Govindarasu. It is also admitted by both parties that,

the plaintiff, 1st defendant and their father named Ramachandran had partitioned their family properties through Ex.A.2 partition deed, It is the case of the plaintiff that, during execution of Ex.A.2 partition deed all parties have agreed to leave pathway to others so as to access their respective lands. It is further case of the plaintiff that, the plaintiff can enjoy his “A” schedule property only through common path way in the “B” schedule property which the same belongs to the 1st defendant.

9.2) On the other hand, it is the case of the defendants that, there is no existence of common pathway in the “B” schedule property and no recital as to common pathway in Ex.A.2 partition deed. The defendants further contended that, the plaintiff is having alternative pathway to access the plaint “A” schedule property.

9.3) From the pleadings and the evidence it is crystal clear that, the suit property originally was a family property of the plaintiff and 1st defendant. When the family property were partitioned between the family members, then the rights as to pathway has to be specifically mentioned. But, in the case in hand, there is no recital as to pathway in Ex.A.2 partition deed. The plaintiff has deposed that, he have no other way to access plaint “A” schedule property except through defendants “B” schedule property. An advocate commissioner was appointed by this court and the suit property was measured by the advocate commissioner with the aid of surveyor. The report along with the rough sketch of the advocate commissioner were marked as Ex.C.1 & Ex.C.2. The learned advocate commissioner in his report has stated that, the “A” schedule property can be accessed only through “B” schedule property. The relevant portion of the report of the advocate commissioner is extracted hereunder:-

“A” அட்டவணை சொத்திற்கு முதலில் சர்வீஸ் அம்மா சொத்தான சர்வே எண்.277/8B வழியாக “B” அட்டவணை சொத்து வழியாகதான் “A” அட்டவணை சொத்தை அடைய முடியும். தவிர “B” அட்டவணை சொத்து பாதை என்பது தனியாக பாதை எதுவும் போகவில்லை. நடைமுறையில் பாதையாக பயன்படுத்தியதற்கான அடையாளம் உள்ளது.

From the report of the advocate commissioner it is clear that, there is no alternative way for the plaintiff to access the plaintiff “A” schedule property. On the other hand, the defendants have stated about the existence alternative way for the plaintiff to access the “A” schedule property. But, the defendants have not stated about the survey number and extent of the alternative pathway for the plaintiff and the same was admitted by DW-1 during his cross examination. The relevant portion of the cross examination of DW-1 is extracted hereunder.

வாதியின் "அ" அட்டவணை சொத்திற்கு செல்வதற்கு தனி வழி உள்ளதாக குறிப்பிட்டுள்ள நிலையில் எந்த சொத்தின் வழியாக செல்ல முடியும் என்றும், அதன் சர்வே எண் என்னவென்று நான் பிரமாண பத்திரிக்கையில் குறிப்பிட்டு சொல்லவில்லை என்றால் சரிதான்.

From the deposition of the DW-1 it is clear that, the defendants have not stated about the details of the alternative way. In a suit for easement right, if the defendants take a stand about the existence of alternative pathway, then it is the bounden duty of the defendants to prove the existence of alternative pathway. In the case in hand, the defendants have not proved the existence of alternative pathway.

9.4) It is the case of the plaintiff that, the suit “B” schedule property was been enjoyed for long time and sought for easement right. The defendants in their written statement has denied the existence of pathway in the “B” schedule property. But, during cross examination, the DW-1 has admitted about usage of “B” schedule property as pathway. The relevant portion of cross examination of DW-1 is extracted hereunder.

வா.சா.ஆ.2 ஆவணத்தின் படி பாகம் பிரிப்பதற்கு முன்பு எந்த வழி பிரச்சனையும் இல்லை என்றால் சரிதான். பாக பிரிவினைக்கு முன்பு ஒவ்வொரு நிலத்திற்கும் சென்று வருவதற்கு வரப்பு வழியாக மாமூலாக சென்று வந்தோம் என்றால் சரிதான்.

From the above evidence of DW-1 it is clear that, the plaint “B” schedule property was been enjoyed as pathway and the dispute was arisen between plaintiff and defendants only during march 2017.

9.5) During arguments, the learned counsel for defendants has submitted that the ingredients for granting easement right is not satisfied, citing that the requirement of continuous usage of 20 years is not met out. On the other hand, the learned counsel for plaintiff has submitted that, the pathway in “B” schedule property was being enjoyed right from execution of Ex.A.1 sale deed and very well satisfied the requirement of Easement Act. It is admitted by both parties that the suit property originally belongs to plaintiff’s and 1st defendant’s grandfather and the same was partitioned through Ex.A.2 partition deed. When the suit property was under the enjoyment of plaintiff and 1st defendant family right from 1956, then the plea of the

defendants, that the 20 year requirement is not met out, does not hold water. From the evidence of PW-1 & DW-1 it is crystal clear that, the suit “B” schedule property was earlier used as pathway to access the suit “A” schedule property. From the report of the advocate commissioner it is apparent that, the plaintiff can access the suit “A” schedule property only through “B” schedule property. The defendants have also not proved the existence of alternative pathway to access plaint “A” schedule property. When there is no alternative pathway for the plaintiff to access plaint “A” schedule property, then obviously, the plaintiff is entitled to the relief of easement by necessity. On appreciation of evidence and documents it is apparent that, there is no alternative way for the plaintiff to access suit “A” schedule property except through “B” schedule property. Based on the above discussion this court comes to the conclusion that the plaintiff is entitled for easement right over “B” schedule property and Issue No.1 & 2 are decided in favour of the plaintiff.

10. ISSUE NO.3:-

Issue No.1 & 2 are decided in favour of the plaintiff. The plaintiff has stated that, during march 2017 the defendants had caused interference in accessing the plaint “A” schedule property through plaint “B” schedule property. The DW-1 in his cross examination has admitted that, the dispute with plaintiff was arisen only during march 2017. In Issue No.1 & 2, it is decided that, the plaintiff is entitled for the relief of easement right and accordingly the plaintiff is entitled to the relief of permanent injunction and accordingly this issue is decided in favour of the plaintiff.

11. ISSUE NO.4:-

Issue No.1, 2 & 3 are decided in favour of the plaintiff and accordingly the plaintiff is not entitled to any other reliefs.

12. In the result, this suit is decreed as prayed.

i). It is declared that, the plaintiff is having easement right over suit “B” schedule property to access suit “A” schedule property.

ii). That the relief of permanent injunction is granted in favour of the plaintiff restraining the defendants their men, agents from interfering with the plaintiff’s enjoyment of “A” schedule property accessing through suit “B” schedule property as path way.

iii). No Costs.

Dictated to the Steno-Typist transcribed by him, typed in computer, then corrected and pronounced by me in the open Court on this the 26th day of March 2026.

**District Munsif,
Vanur.**

Plaintiff Side Witnesses:-

P.W.1 :- Ramadoss (Plaintiff)

P.W.2 :- Venkatesan (3rd person) [Eschewed by this court by order dated 26.07.2024]

P.W.3 :- Venkatesan (3rd person)

Plaintiff Side Documents:-

Ex.A.1	23.06.1956	Sale deed dated executed by Manickam Padaiyatchi in favour of Govindarasu Kounder.	- Online Copy
Ex.A.2	25.09.2006	Partition deed executed between plaintiff's father named Ramachandran, plaintiff, 1 st defendant and one minor girl named Keerthana.	-Online Copy
Ex.A.3	10.03.2017	Copy of caveat petition filed by the defendants against the plaintiff.	- True Copy
Ex.A.4	----	Rough Sketch of the suit properties.	- Original
Ex.A.5	----	2 photographs and one compact disc.	- Original

Defendants Side Witnesses :-

D.W.1 :- Selvarasu (1st Defendant)

D.W.2 :- Vijayakumar (3rd person)

Defendants Side Documents:- NIL**Court Documents:-**

Ex.C.1	16.09.2022	Report of the Advocate Commissioner along with Memo.	- Original
Ex.C.2	16.09.2022	Rough Sketch filed by the Advocate Commissioner along with Memo.	- Original

**District Munsif,
Vanur.**