



WEB COPY

SA No. 210 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

SA No. 210 of 2013

and

M.P.No.1 of 2013

1. THANGAVEL(died)
2. Kanakambaram
3. Thanikachalam
4. Kumari
5. Shankar
6. Prabakaran

[R2 to R 6 who are the legal heirs of the deceased sole appellant viz Thangavel were transposed as appellants 2 to 6 vide order of court dated 23/04/2019 made in CMP No.9034 of 2019 in SA.No.210 of 2013]

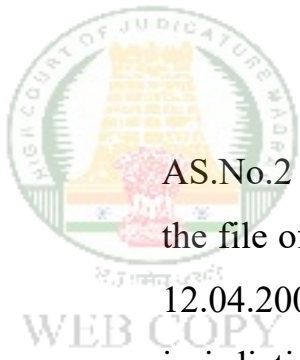
..Appellants

Vs

1. Ranganatha Gounder
7. Boopathi

..Respondents

Prayer: Second Appeal filed under section 100 of CPC that the judgment and decree of the Court of the 2nd Additional Subordinate Judge, Villupuram in



AS.No.2 of 2008 dated 21.12.2012 in confirming the judgment and decree on the file of the Principal District Munsif, Tirukoilur in OS No 364 of 2005 dated 12.04.2007 is even otherwise illegal, incompetent, irregular and without jurisdiction.

For Appellant(s):	Mrs.V.Srimathi (R2 to R6 transposed as appellants)
For R1	Ms.R.Meenal
For R7	No appearance

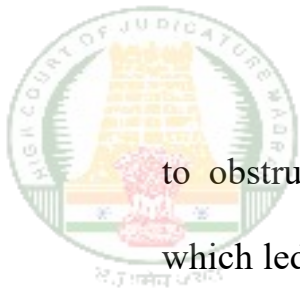
Judgment

Heard.

2. This second appeal has been filed by the 5th defendant in O.S. No.364 of 2005 challenging the judgment and decree dated 21.12.2012 in A.S. No.2 of 2008 passed by the II Additional Subordinate Judge, Villupuram, which confirmed the judgment and decree dated 12.04.2007 in O.S. No.364 of 2005 on the file of the Principal District Munsif Court, Tirukoilur.

3. For convenience, the parties are referred to as they were arrayed before the trial court.

4. The suit was instituted for permanent and mandatory injunctions in respect of B schedule. The “A Schedule” property is the plaintiff’s patta land. The “B Schedule” property is a strip of land in Survey No.74 described as “pattai poromboke”. According to the plaintiff, the B Schedule forms the only access from the tar road to the A Schedule lands, and the defendants attempted



to obstruct this access by putting up construction and encroaching upon it, which led to the present reliefs. The plaintiff also sought a permanent injunction against defendants 1 to 4 to restrain them from converting the B Schedule pattai poromboke into natham and from granting patta to the encroachers.

5. The 5th defendant contested the suit on the footing that, although the land is classified as pattai poromboke, it is not used as a pathway as alleged. He asserted that several persons have encroached upon the land in and around the area, that the plaintiff has other means of access, and that the suit is bad for non-joinder and not maintainable without seeking declaratory relief. He also contended that the prayer for mandatory injunction is barred by limitation and in any event defeated by delay.

6. In the written statement filed by the 4th defendant (RDO), which was adopted by defendants 1 to 3, it was contended that the B Schedule in Survey No.74 is Government land classified as pattai poromboke, and that portions of this poromboke have been encroached upon by about 38 persons. On that basis, it was urged that the suit suffers from non-joinder and misjoinder of necessary parties, since the encroachers were not impleaded, and that the plaintiff is not in actual use or enjoyment of the pattai poromboke as claimed. It was further stated that, owing to objections raised by the village people, there is no proposal either to convert the encroached pattai poromboke into natham or to grant patta to the encroachers.



7. On an appraisal of the oral and documentary evidence, including the admissions elicited from the defence witnesses, the Trial Court found that the plaintiff had been using the B Schedule as an access for many years, that there was no effective alternative access as suggested by the defence, and that the defendants had no right to obstruct the plaintiff's use of the pattai poromboke as a pathway or access. On these findings, it granted the reliefs of permanent injunction and mandatory injunction.

8. However, the Trial Court declined the additional relief of permanent injunction sought against defendants 1 to 4 to restrain conversion of the B Schedule into natham and the grant of patta, since it found that there was no proposal for such conversion or issuance of patta and, in any event, those defendants were later deleted from the array of parties.

9. The First Appellate Court, being the final court on facts, reappreciated the entire evidence and concurred with the Trial Court.

10. Aggrieved by the confirming judgment, the 5th defendant has filed this second appeal contending that the B Schedule land, though classified as pattai poromboke, is not a cart-track or pathway as alleged and is in the occupation of several persons. He further submits that, in the absence of a prayer for declaration, a mandatory injunction ought not to have been granted, and that the claim is barred by limitation and, in any event, defeated by delay and laches. He also disputes the plaintiff's case on the absence of alternative access and raises



pleas relating to the alleged proposal for regularisation and issuance of patta.

11. It is well settled that the public and owners of adjoining lands are entitled to have unobstructed access to a public street or cart track, and that no one can, by unauthorised encroachment or construction, interfere with such access. Where a suit is essentially filed to protect the right of user and access over such a public way, a declaratory relief is not necessary, and the mere omission to seek a declaration does not, by itself, bar the grant of an injunction. In the present case, both parties have clearly admitted that the B Schedule land is “pattai poromboke”, and its classification or nature is not in dispute. Both courts below have referred to these settled principles and applied them to the facts.

12. The appellant’s reliance on *Anathula Sudhakar v. P. Buchi Reddy (Dead) by Lrs. & Ors., (2008) 4 SCC 594* is misplaced. That decision is attracted where the plaintiff’s title is seriously in dispute and a genuine cloud is raised, in which case a bare suit for injunction without a prayer for declaration is not maintainable. In the present case, the plaintiff neither seeks possession nor asserts title over the B Schedule. The claim is confined to the right of access or right of way through the B Schedule land described as pattai poromboke, the nature of which is not in dispute. The objection that the suit must fail for want of declaratory relief is therefore untenable.

13. On limitation, the complaint is of obstruction to access. Such obstruction gives rise to a continuing or recurring cause of action so long as it persists, and



therefore the plea of limitation does not assist the appellant. As to the contention that there is an alternative pathway, both courts below have recorded findings on the basis of the evidence and admissions. These are essentially factual matters. In a second appeal, this Court cannot reappreciate the evidence and substitute its own view in the absence of perversity or any misapplication of law.

14. All the contentions raised by the appellant have been considered and answered by the courts below on settled principles. No perversity or legal infirmity has been shown. No substantial question of law arises for consideration under Section 100 of the Code of Civil Procedure, and the second appeal is therefore liable to be dismissed.

15. In the light of the foregoing discussion, the second appeal is dismissed at the admission stage. There will be no order as to costs. Consequently, the connected miscellaneous petition, if any, stands closed.

27-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

mfa



To

1. 2nd Additional Subordinate Judge, Villupuram

2. Principal District Munsif, Tirukoilur

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DR.A.D.MARIA CLETE J.

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