



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 26-02-2026**

CORAM

**THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

**SA No. 802 of 2024 & CMP.25637 of 2024**

1. Thangadurai  
S/o.Paramasivam, Therkutheruvu, Kolaiyanur  
Village, Udayarpalayam Taluk Ariyalur District
2. Rajendran  
S/o.Perumal, Therkutheruvu, Kolaiyanur  
Village, Udayarpalayam Taluk Ariyalur District

..Appellant(s)

Vs

1. Masilamani  
S/o.Munniyamuthu, res at Kottatheruvu,  
Kolaiyanur Village, Udayarpalayam Taluk,  
Ariyalur District
2. Rathinam  
S/o.Chinnathambi, res at Kottatheruvu,  
Kolaiyanur Village, Udayarpalayam Taluk,  
Ariyalur District
3. Mayavan  
S/o.Rajamanikam, res at Kottatheruvu,  
Kolaiyanur Village, Udayarpalayam Taluk,  
Ariyalur District
4. Rasathi  
W/o.Mayavan, res at Kottatheruvu, Kolaiyanur  
Village, Udayarpalayam Taluk, Ariyalur  
District

..Respondent(s)



Prayer : Second Appeal filed under section 100 of Code of Civil Procedure to set aside the Judgment and decree of the learned Subordinate Court at Jayamkondam dated 04.03.2024 in AS No.6/2023 reversing the Judgement and decree of the learned Additional District Munsif Court at Jayamkondam in OS No.300/2015 dated 08.03.2023.

For Appellant(s): Mr.K.P.P..Raja Raja Chozhan

For Respondent(s): Mr.A.Gouthaman FOR R1 TO R4

### **JUDGMENT**

Challenging the reversal finding of the first appellate Court, the plaintiffs have filed the present Second Appeal.

2. The plaintiffs have filed the suit for permanent injunction. The first plaintiff is the second plaintiff's sister's son. The case of the plaintiffs is that the plaintiffs are enjoying the suit property for the past 50 years without any hindrance and the patta of the suit property was in the name of the father of the plaintiff and thereafter, during UDR survey joint patta has been granted in favour of the plaintiffs. The defendants, who are neighbouring owners, are disturbing peaceful enjoyment and possession of the plaintiffs in the suit property. Hence, they had filed the suit.



3. It is the case of the defendants that the suit property is a pathway for the defendants and one Kalaiarasi and even as per the sale deeds of the parties, the suit property is mentioned as a pathway and that there is a electric post in the suit property through which electricity connection is drawn and that the plaintiffs are not in possession of the suit property at any point of time.

4. On the basis of the above pleadings, the trial Court had framed the following issues :

1. Whether the plaintiffs are entitled to permanent injunction as claimed in the suit property?
2. What other relief plaintiffs are entitled to?

5. During the course of trial, on the side of the plaintiffs, P.W.1 and P.W.2 were examined and Ex.A1 to A4 were marked. On the side of the defendants, first defendant was examined as D.W.1 and Ex.B1 to Ex.B.9 were marked.

6. After conclusion of trial, the trial Court decreed the suit and granted permanent injunction in favour of the plaintiffs. On the appeal preferred by the defendants, the first appellate Court had allowed the appeal and set aside the judgment and decree of the trial Court. Hence, the plaintiffs have preferred this



Second appeal, challenging the reversal findings of the first appellate Court, which has been admitted on the following questions of law :

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*“1. Whether the lower appellate Court erred in not dismissing the appeal in absence of specific denial by the respondents/defendants about the lands in Patta No.1002 as per Ex.A.2?*

*2. Whether the lower appellate Court erred in not appreciating the documentary evidence in respect of Ex.A1 to Ex.A.4 which proves ownership and possession of the appellants?*

7. The learned counsel appearing for the appellants would submit that the plaintiffs are in possession and enjoyment of the property for more than 50 years without any hindrance and the patta has also been granted in favour of the father of the first plaintiff and thereafter, during UDR survey, a joint patta has been granted in favour of the plaintiffs and the defendants are attempting to encroach upon the property of the plaintiffs. Hence, it is his contention that the first appellate Court without appreciating the evidence adduced on the side of the plaintiffs has dismissed the suit and the same requires interference.

8. It is the contention of the respondents that plaintiffs were not in possession of the suit property at any point of time and that an electrical post is in the suit property through which electricity is drawn and the suit property is



only a pathway and hence, the first appellate Court rightly dismissed the suit which requires no interference.

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9. Though the appellants claim that they are in possession and enjoyment of the suit property for more than 50 years, they have not filed any documents to substantiate their case. Whereas, the sale deeds Ex.B.2, Ex.B.4 and Ex.B.6 filed on the side of the defendants will go to prove that the suit property is used as a pathway and same is also shown as a boundary. Further, the appellants have denied the revenue records which indicate that suit property is a pathway. But, P.W.2, who is a Village Administrative Officer, in his cross examination had admitted that the suit property is a pathway. It is relevant to note that the plaintiffs, who claim that they are in possession of the suit property for more than 50 years, have not produced any documents to prove that they are in possession of the suit property at the time of filing of the suit except the patta. It is settled preposition that patta is not a document of title. The documents filed on the side of the defendants and the photographs filed by them, clearly indicate that the suit property is a pathway and there is an electric post in the pathway. Hence, this Court is of the view that the first appellate Court had rightly come to the conclusion that the suit property is a pathway and dismissed the suit which requires no interference and I do not find any merits in this appeal. The substantial questions of law are answered accordingly.



10. In the result, this Second Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

**26-02-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

vrc

To,

1. The Subordinate Judge,  
Jayankondam, Ariyalur.
2. The Additional District Munsif,  
Jayamkondam.



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**T.V.THAMILSELVI, J.**

VRC

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**26-02-2026**