

IN THE COURT OF THE ADDITIONAL SUB JUDGE AT PUDUCHERRY

PRESENT: THIRU. E.DAMODARAN, B.Sc. M.B.A., L.L.M.,
ADDITIONAL SUB JUDGE
PUDUCHERRY

Friday, the 24th day of April, 2026

I.A.No.06/2025 in O.S.256/2025

1. Sagunthala
2. Arumugam
3. Selvamani
4. Balaraman
5. Krishnamoorthy

.... Petitioners/Plaintiffs

Vs.

1. Nagamuthu
2. Devanathan
3. Viji

4. Union of India
Union Territory of Puducherry
Rep. by it Chief Secretary.

5. The Executive Engineer,
Public Health Division (Water),
Pondicherry.

6. The Assistant Engineer,
Electricity Department Kurumbapet Sub-Station,
Mettupalaym, Pondicherry.

.... Respondents/Respondents

This petition coming on this day for final hearing before me in the presence of Tvl. L. Vinoba, K. Sundarrajan, V. Vijayababu and K. Muthukumaran, learned counsel appearing for the Petitioners/Plaintiffs, Thiru.

S. Parimalam, learned counsel appearing for the 1st to 3rd Respondents/Defendants, and upon hearing the petitioner/plaintiff and 1st respondent/1st defendant and after perusing the case records and having stood over till this day for consideration, this Court passed the following:

ORDER

The petition filed by the petitioners/plaintiffs under Order XXXIX Rules 1 and 2 of CPC r/w Section 151 of CPC to grant an ad-interim injunction restraining the 3rd respondent/defendant, her men, agents or her heirs from alienating the suit schedule mentioned property to any third parties till the disposal of suit.

1. **The petition averments in short as follows:**

The petitioners/plaintiffs contended that they have filed the above suit for the reliefs of declaration, partition and permanent injunction against the defendants. The suit property mentioned in the schedule originally belonged to their father Deivanayagam, vide a Natham Patta No.238(N). The said Deivanayagam married on Ammulu and begot six children i.e., the plaintiffs herein and 1st respondent/defendant.

The petitioners/plaintiffs contended that the said Deivanayagam died intestate on 08.11.2007, leaving behind them and their brother Nagamuthu i.e., the 1st respondent/defendant herein to succeed the property mentioned in the schedule hereunder by inheritance. The plaintiffs mother Mrs. Ammulu, too predeceased their father Deivanayagam on 05.11.2007. The demise of the said Deivanayagam, the Petitioners/Plaintiffs and their brother Nagamuthu 1st respondent/defendant

remained in Joint possession of the property mentioned in the schedule hereunder. Since difference of opinion arose between them Petitioners/Plaintiffs and their brother Nagamuthu 1st respondent/defendant, negotiations for partition was mooted out and the plaintiffs brother Nagamuthu did not come forward for amicable partition of the property.

The petitioners/plaintiffs contended that the Petitioners/Plaintiffs recently gained knowledge from reliable sources that their brother Nagamuthu 1st respondent/defendant, who is entitled only for 1/6th share in the schedule mentioned property, has settled the entirety of the property in favour of his son Devanathan (2nd respondent/defendant), vide a Settlement deed dated 28.11.2022, registered as Doc. No.37465/2022, without any absolute right over the property. The petitioners/plaintiffs immediately verified the encumbrance through online portal and shocked to see another settlement deed dated 04.04.2025, executed by Devanathan in favour of his wife Mrs. Viji (3rd respondent/defendant), registered as Doc. No.9961/2025. The settlement deed dated 28.11.2022 and settlement deed dated 04.04.2025, registered as Doc. No.9961/2025 are sham and nominal and does not confer any title on the defendants No.2 and 3.

The petitioners/plaintiffs contended that they lodged a police complaint dated 04.06.2025 to the Mettupalayam Police, due to the police complaint, Devanathan, S/o of Nagamuthu and his wife Viji, ie, the 2nd and 3rd respondents/defendants are taking efforts to dispose the schedule mentioned property to third parties at a throw away price in a stealthy manner without any right or whatsoever. The petitioners/plaintiffs immediately sent a notice of protest dated 16.06.2025 to the Sub-Registrar, Villianur Sub-Registration Department, Pondicherry.

The petitioners/plaintiffs contended that things being so, the respondents/defendants 2 and 3 on 25.06.2025, attempted to obtain electricity and water service connection in the hut situate in the suit property. The petitioners/plaintiffs gained knowledge about the same when the officials from the electricity department visited the property and they swiftly acted and objected for extending electricity service connection by a representation dated 25.06.2025. The Officials of the 5th respondent/defendant had also gave reply dated 31.07.2025, stating that unless or until they are restrained by an order from the court, they will provide electricity connection to the hut.

The petitioners/plaintiffs contended that the 1st respondent/defendant, who is entitled for 1/6th share over the schedule mentioned property without any semblance of right had settled the entirety of the property in favour of his son, the 2nd respondent/defendant. The 2nd respondent/defendant too without any absolute right or whatsoever, had settled the property in favour of his wife, the 3rd respondent/defendant. The Settlement deed dated 28.11.2022, registered as Doc.No.37465/2022, executed by the 1st respondent/defendant in favour of the 2nd respondent/defendant and the Settlement deed dated dated 04.04.2025, registered as Doc. No.9961/2025, executed by the 2nd respondent/defendant in favour of the 3rd respondent/defendant are not valid and liable to be declared as Null and Void in respect of petitioners/plaintiffs 5/6th undivided share. Hence the petitioners/plaintiffs are constrained to file this suit for comprehensive reliefs of Declaration and Partition.

The petitioners/plaintiffs contended that since the petitioners/plaintiffs are entitled for their undivided 5/6 undivided shares in the schedule mentioned property, the respondents/defendants are not legally entitled to obtain water service to the property mentioned in the schedule in the name of the 3rd respondent/defendant and also restraining the 3rd respondent, his agents and heirs from alienating the suit properties to the third parties. The petitioners/plaintiffs have a prima facie case, the balance of convenience is also in their favour and if water service connection is given in the name of the 3rd respondent/defendant, the petitioners/plaintiffs would suffer irreparable loss.

The respondents/defendants No.1 to 3 in connivance with each other are taking effective steps to dispose the property, if the same is not resisted by way of interim injunction the petitioner will suffer great loss. Hence the petition.

2. **The common counter averments of 1st respondent/1st defendant and same is adopted by the 2nd and 3rd respondents/defendants in short as follows:**

These respondents/defendants denied all the allegations stated by the petitioners/plaintiffs in the petition. Hence prays of dismissal of the petition.

3. The only point for the consideration is whether the petition is to be allowed or not?

4. **On Point :**

The petition filed by the petitioners/plaintiffs to under Order XXXIX Rule 1 and 2 of CPC r/w Section 151 of CPC for interim injunction restraining the 3rd respondent/defendant from alienating the suit property to any third parties till the disposal of suit.

5. Heard both sides and perused the records. Upon perusing the records, it is evident that the plaintiffs and 1st defendant are legal heirs of Deivanayagam. The said Deivanayagam holds 1/3rd share in the property coming under Kurumampet Revenue Village R.S.No.40/84, Cad. No.104/2/5pt comprised under Patta No.238(N) to an extent of 3568 Sq. Ft. in which 1/3rd share measuring an extent of 1108 Sq. Ft. of vacant land and a thatched house in the said property. The said Deivanayagam died intestate in the year 2007 leaving behind the plaintiffs and the 1st defendant as his only legal heirs to succeed his estate. While so the 1st defendant without considering the fact that plaintiffs are also entitled to equal share in the suit property had executed a settlement deed dated 28.11.2022 in favour of the 2nd defendant. Subsequently the 2nd defendant had also executed a settlement deed in favour of the 3rd defendant on 04.04.2025. The petitioners had alleged that they have equal share to an extent of 1/6th share each in the suit property and hence the said 1st defendant who is entitled only to 1/6th share in the suit property had no right to execute a settlement deed with respect of whole of suit property in favour of the 2nd defendant and subsequently without any right the 2nd defendant had executed a settlement deed in favour of the 3rd defendant. Upon perusing the recitals of settlement deed executed by 1st defendant, it is evident that

the father of plaintiffs and 1st defendant had not executed any documents with respect to the suit property in favour of any of his legal heirs and died intestate. In such event this court is prima facie satisfied that the 1st defendant had executed settlement deed exceeding his right in favour of the 2nd defendant. Hence the apprehension of the plaintiffs is that further encumbering of suit property will lead to multiplicity of proceedings seems to be reasonable and acceptable. The plaintiff had made out a prima facie case and balance of convenience is also in their favour.

6. In the result, this petition is hereby allowed. The 3rd respondent is hereby restrained by way of interim injunction not to alienate or encumber the suit property until the disposal of the suit. No costs.

Dictated to the stenographer, who directly typed the same in the official computer, corrected and pronounced by me in the Open Court, on this the 24th day of April, 2026.

(E. DAMODARAN)
ADDITIONAL SUB JUDGE
PUDUCHERRY