



IN THE VII ASSISTANT CITY CIVIL COURT, CHENNAI

Present : Thiru.D.Mohankumar, B.Com., M.L.,

VII Assistant Judge

Monday, the 17th day of August, 2026

I.A.No.2 of 2026

in

O.S.No.1413 of 2026

CNR.No.TNCH01- 007324-2026

T.Shanmugam

..Petitioner/plaintiff

Vs

R.Valan

..Respondent/Defendant

This petition is coming before me for final hearing on 17.08.2026 in the presence of M/s.N.S.Sivakumar, K.Kishore Kumar, K.NaveenKanth, R.Rajagopalan counsel for the Petitioner/plaintiff and M/s.J.Srinivasan, S.Sam Miracle Agasi, A.Srinivasan counsel for respondent/defendant and after hearing both side arguments and upon perusing the documents and this application having stood over for consideration till this day and this court delivered the following:-

ORDER

1. Heard both side arguments and perused the records.

2. This petition is filed by the petitioner/plaintiff under Order 39 Rule 1 and 2 of CPC, to grant an interim injunction restraining the respondent/defendant, his men, agents, servants or anyone claiming under him from putting up any further construction or in any manner encroaching upon or interfering with the petitioner's possession of the property described in Schedule C forming part of Schedule A pending disposal of the suit.

3. According to the petitioner, the petitioner is the absolute owner of the suit A schedule property, having purchased the same under a registered sale deed.

The petitioner was in continuous, peaceful possession and enjoyment of the said property. The respondent is the owner of the adjacent property described in Schedule B. On October 2016, the respondent demolished the existing structure in his property and constructed a wall on the eastern side of the property. The respondent encroached the petitioner's property to an extent of about 34 sq.ft as described in Schedule C. The encroachment runs along with the entire length of the boundary from North to South and has materially interfered with his possession and enjoyment. The respondent initially assured that the encroachment would be rectified but he failed to do so and hostile claim over the encroached portion. The petitioner approached the Tahsildar seeking survey and demarcation. The survey was not conducted in accordance with revenue records. The petitioner preferred an appeal seeking re-survey, which remains pending. In the first week of March 2026, the respondent commenced further construction by erecting concrete pillars and he is attempting to raise a permanent superstructure over the encroached portion. Despite the petitioner's objections, the respondent has refused to desist and has openly declared that he will proceed with construction. The respondent has no legal right over the encroached portion, shown as Schedule C in the rough sketch. Hence, this petition.

4. On the other hand, the respondent stated that the petitioner had constructed ground floor building in the year 2001 itself and thereafter the petitioner had never put up any additional construction in the ground floor as alleged by the petitioner/plaintiff. The petitioner's tenant had commenced the construction of a temporary shed in the petitioner's property without leaving any set back on the either side of his property and at that time the petitioner tried to fix the iron rod and supports on his building without getting any permission, which the petitioner had resisted the same and due to which the petitioner developed unnecessary quarrel with the respondent. The respondent further stated that the petitioner in order to threaten the respondent made unnecessary claims as though the respondent had encroached into his property. The petitioner

alone applied for survey and demarcation and even then also, the respondent had provided all necessary documents to the revenue officials at the time of survey and demarcation which was conducted in the month of February 2020. The surveyor after fullpledged survey and demarcation had come to decision that there is no sought of encorachment and the respondent had constructed the building completely within his property. The petitioner had failed to mention that an what basis he had arrived to a conclusion that an extent of 9 inches was encroached by the respondent in his property by calculated the same to a total extent of 34' sq.ft as mentioned in schedule C. The petitioner/plaintiff had not filed any single piece of evidence to show that he raised any objection, notice or filed any complaint against the respondent prior to filing the suit. Hence, the above suit is filed without giving any property pre-litigation notice or complaint. Hence, this petition is liable to be dismissed.

5. On a perusal of the records, the suit property comprises three items: Item A belongs to the petitioner, Item B belongs to the respondent, and Item C is the disputed portion of the suit property. It is an undisputed fact that the properties of the petitioner and the respondent are adjacent to each other and the respondent being the western side neighbour of the petitioner. According to the petitioner, the respondent encroached upon an area admeasuring 9 inches x 45ft = 34 sq.ft of land and constructed a compound wall thereon, and subsequently put up further construction by erecting pillars to restrict the same, which led to the filing of the present petition. The petitioner himself has admitted that the respondent constructed the compound wall in the year 2016. Although the petitioner raised his objection at that time and the respondent agreed to remove the wall, the respondent failed to do so. The petitioner further contended that prior to filing the suit, the property was measured by the Government Surveyor on his petition, but the surveyor did not measure it in accordance with the revenue records.

6. On the other hand the respondent herein has objected to the petitioner's claim and stated that the building was constructed strictly within his boundary in the year 2001, and no construction was carried out thereafter. In these circumstances, whether there is any encroachment in the suit property can only be decided after measuring the property. The petitioner has filed this petition along with the petition for seeking the appointment of an Advocate Commissioner to measure the property with the assistance of a Government Surveyor. Only after perusing the Commissioner's report can this Court adjudicate the real dispute between the parties, namely whether their title deeds tally with the revenue records or if any discrepancy exists.

7. Further, even assuming that the respondent constructed the building at the edge of his property without leaving sufficient space to maintain the building and to enjoy easementary rights of light and air, thereby causing inconvenience to the petitioner. In this case the respondent has stated that no building constructed on his property after 2021, the said fact which also falls to be decided only upon receipt of the Commissioner's report. However, in this case, since the petitioner has admitted that the compound wall was constructed as early as 2016 and appeal pending in respect of re-survey before the Revenue Authority. Therefore, there is no prima facie case, balance of convenience, or irreparable loss in favour of the petitioner to grant any interim relief. Therefore, the present petition is dismissed on devoid of merits.

In the result, this petition is dismissed. No costs.

Directly dictated to the Steno-typist, typed by her, corrected and pronounced by me in the open court on this the 17th day of August, 2026.

**VII Assistant Judge,
City Civil Court, Chennai.**

I. Petitioner side Witness : Nil**II. Petitioner side Exhibits :**

Ex.P1	10.12.2001	Sale deed
Ex.P2	24.06.2002	Sale deed
Ex.P3	04.10.2019	Petition to Tahsildar for survey with clean copy
Ex.P4	18.03.2020	Letter issued by Tahsildar, Ayanavaram
Ex.P5	06.04.2000	Sale deed
Ex.P6	19.04.2012	TSLR Patta

III. Respondent side Witness : Nil**IV. Respondent side Exhibits :**

Ex.R1	12.10.1989	Sale Deed (Photo copy)
Ex.R2	06.04.2000	Sale Deed (Photocopy)
Ex.R3	20.04.2001	Water tax receipt and water charges receipt
Ex.R4	20.04.2001	Property tax collection
Ex.R5	11.12.2025	Town Survey Extract (Online copy)
Ex.R6	28.03.2023	Water tax receipt
Ex.R7	05.04.2025	Property tax receipt
Ex.R8	29.01.2026	Encumbrance certificate.

**VII Assistant Judge,
City Civil Court, Chennai.**

Draft/Fair Order
I.A.No.2 of 2026
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O.S.No.1413 of 2026
Dated:17.08.2026.
VII Asst. Court