IN THE COURT OF MUNSIFF, WADAKANCHERY

Present:- Sri. Yahya. T. K., Munsiff

Tuesday, the 15th day of December, 2025/ 25th Margaseersham 1947 SE

I.A. 2/2025 IN O.S. 456/2025

Petitioner/ Plaintiff:

Sarala, aged 63 years, D/o Radha Varasyar, Moolangattu Variyam, Mayannur Post, Pin Code: 679 105, Thrissur District.

By Adv. Radhika. M.

Respondents/ Defendants:

1. Sankaran. M. B., aged 55 years, Mundanatt Mana, Mayannur Post, Thrissur District.
2. Rajan. K., aged 62 years, Kallicholayil House, Mayannur Post, Thrissur District.
3. Sreedevi, aged 57 years, Raginiyil House, Mayannur, Thrissur District.
4. Anish, aged 30 years, S/o Chinnan, D. C. Nagar, Mayannur Post, Thrisur District.
5. Sushama, aged 50 years, Thannikkal House, Mayannur Post, Thrissur District.
6. Hariharan, aged 40 years, Vadakkekuruvath House, Mayannur Post, Thrissur District.

By Adv. N. S. Manoj.

This petition is coming on this day for hearing, the Court passed the following:

O R D E R

This is an application filed by plaintiff under Order XXXIX R1 CPC seeking temporary injunction. The parties are referred to as their status in the suit.

2. **Summary of the application** :- The property scheduled in the plaint belonged to Thirumoolangadu Devaswam. Around 150 years ago, the same was given to Ittunooli Varasyar, who was the elder female member in the family of plaintiff. She had been possessing the property on behalf of the family and took income from the property. After her death, the right devolved upon the next elder female member Pappi Varasyar and thereafter to her daughter Radha Varasyar. After the death of Radha Varasyar, the right devolved upon her children namely Leela Tiwari, Rameshan, Suresh, Ramadas and plaintiff. The defendants have no right over the property. They, under the guise that the property belongs to Tirumoolangadu temple, are trying to trespass upon the plaint schedule property. On 21.09.2025 the defendants trespassed upon the plaint schedule property and committed mischief. The plaintiff sustained loss of ₹ 2,00,000. The plaintiff has perfected title by way of adverse possession. The plaintiff is in exclusive possession of the property. Hence the suit is filed for declaration of title and injunction. It is prayed that pending disposal of the suit, the defendants may be restrained by way of a temporary injunction.

3. **Respondents/defendants filed counter as follows** :- The petition is not maintainable either in law or on facts. It is incorrect to say that the plaintiff got title over the property. The plaintiff got no prescriptive or other title over the property. The plaintiff and her siblings got no possession of title over the property. All other allegations in the plaint are denied. The suit is bad for non jointer of necessary parties. The property belongs to the temple. Attempt of the plaintiff is to somehow grab temple property. Hence it is prayed that the petition may be dismissed.

4. The following points arose for consideration :

i *Has the plaintiff made out a prima facie arguable case in support of the claim for temporary prohibitory injunction ?*

ii *Is balance of convenience in favour of the plaintiff ?*

iii *Will the plaintiff be put to irreparable loss and injury if an order of temporary injunction is not granted ?*

iv *Is the plaintiff entitled to get a temporary prohibitory injunction as prayed for ?*

v *Relief and costs ?*

5. Ext A1 to A11 and C1 series marked from the side of plaintiff. No oral or documentary evidence adduced by the defendants.

6. Heard both sides.

7. **All points** :- The suit is primarily for declaration of title. The plaintiff says that the property scheduled in the plaint originally belonged to Thirumoolangadu devaswam and about 150 years ago it came to her predecessor namely Itunnooli Varasyar who had been engaged in

Kazhakam works in Thirumoolangad Temple. According to the plaintiff, her predecessors in interest used to take usufructs from the property and exclusively possessed it for last more than 150 years. Thus the plaintiff wants to declare her and her siblings' prescriptive title over the property on the basis of adverse possession and limitation. Allegation in the plaint is that the defendants who are acting as the Office bearers of Thirumoolangad temple have trespassed upon the plaint schedule property and committed mischief. Hence the suit is filed for declaration and consequential injunction. The present application is filed seeking temporary injunction until disposal of the suit.

8. Learned counsel for the defendants very seriously opposed the application saying that the attempt of the plaintiff is to somehow grab the temple property. According to them, the suit is bad for non-joinder of necessary parties. They also invited my attention to Exhibit C1 series to say that the property claimed by the plaintiff is not demarcated from the adjacent property wherein the temple is situated. According to defendants, the property scheduled in the plaint as well as the property adjacent to it form part of temple property. Thus it is prayed that the application may be dismissed.

9. I have perused the material on record for a prima facie satisfaction of the case pleaded by the plaintiff. It can be seen from the admitted

pleadings that the plaintiff is not the paper owner of the property; she claims only a prescriptive title through a lady named Ittunnooli Varasyar who has been portrayed as a Kazhakam worker attached to the temple. But no document produced how Ittunooli Varasyar came into possession. There must have been pleading as to whether the predecessors of the plaintiff came into possession by way of a permissive occupation or as a hostile entrance. Because, there must be fundamental pleadings to constitute a case of adverse possession in order to claim a prescriptive title. Thus it can be seen that there is dearth of fundamental pleadings.

10. Coming to the documents produced by the plaintiff, Ext A1, which stated to be a possession certificate issued by the Village Officer, dates back to 17.09.1993. I am afraid whether much reliance can be placed on that document to show present possession of the plaintiff. Same is the fate of the document produced as Ext A3. The other documents (except Ext A2 which is a police complaint) are tax receipts out of which the last paid is dated 24/10/ 2018. No much reliance can be placed on them either to show that plaintiff is in possession of the property as on the date of suit.

11. Two more other important aspects also there in this case. The suit is primarily filed for getting the title of plaintiff declared. Even though the plaintiff has admitted that Tirumoolangad devaswam is the actual owner of the property, the said party is not made a defendant in this case. I think the

same is fatal to the plaintiff's case. The other aspect is about non-joinder of the siblings of the plaintiff. Even according to the plaintiff, the plaintiff is claiming only a fractional share under Radha Varasyar. Then the other legal heirs of plaintiff also should have been arrayed as plaintiffs in the suit. So there is prima facie defects in the framing of suit itself.

12. Coming to the identification of the property, it can be seen from Exhibit C1 series that the property claimed by the plaintiff is not at all identifiable on the ground. Learned counsel for the plaintiff, at this point, vehemently argued that existence of trees and level difference constitute distinguishing features to the property claimed by the plaintiff. I am unable to accept the contention raised by the plaintiff. Merely because of the fact that some trees were found in the property claimed by the plaintiff, it cannot be said that the same is in possession of plaintiff. There must have been clear materials to show that the plaintiff is in actual possession of the property as on the date of suit. At least she must have been able to state sufficient reason why she could not remit land tax after for past 8 years. Ext. C1 series also cast a serious doubt on the case pleaded by plaintiff.

13. Having considered all these aspects, I am of view that no prima facie case has been made out in favour of the plaintiff. As regards the balance of convenience and irreparable injury, learned counsel for the defendants submitted that the temple festival is going to be held tomorrow

and that a customary function (namely Niramala) is going to be performed in the ground which has been shown as plaint schedule property. It was submitted by learned counsel for the defendant that attempt of the plaintiff is to somehow interfere with the smooth conduct of the festival. So the balance of convenience and principles of irreparable injury, at this stage, is not in favour of the plaintiff. So this point is found against the plaintiff.

In the result,

IA dismissed. No costs.

(Dictated to AI, corrected and pronounced by me in the open court on this the 16th day of December, 2025)

Sd/-
YAHYA. T. K.,
MUNSIFF

APPENDIX

Petitioners's Exhibits:

A1	: 17.09.1993	Possession Certificate.
A2	: 22.09.2025	Copy of petition to SHO, Pazhayannur Police Station.
A3	: 17.09.1993	Group of Sketch of Sy. Nos. 841 & 840 of Mayannur Village.
A4	: 20.03.1994	Land Tax Receipt.
A5	: 20.07.1994	Land Tax Receipt.
A6	: 10.03.1997	Land Tax Receipt.
A7	: 02.05.2001	Land Tax Receipt.

A8 : 27.04.2012 Land Tax Receipt.

A9 : 24.05.2013 Land Tax Receipt.

A10 : 13.12.2017 Land Tax Receipt.

A11 : 24.10.2018 Land Tax Receipt.

Court Exhibit:

C1 : 10.12.2025 Commission Report in IA03/2025.

C1(a) : 10.12.2025 Rough Plan.

Id/-
MUNSIFF