

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, POLLACHI.**

**PRESENT: Thiru. M.S.Sreenath B.A., B.L.,(Hons) L.L.M.,  
Additional District Munsif, Pollachi**

**Wednesday 29<sup>th</sup> day of April 2026**

**IA. No.2/2025**

**in**

**O.S. No.44/2025**

Gurusamy

.... Petitioner/ Plaintiff

-Vs-

Rajanarayanan

.... Respondent/Defendant

This Petition came up for final hearing before me in the presence of Thiru.M.S.Gnanajanthan, learned Counsel for the Petitioner and in the presence of the Thiru M.Raja, as learned counsel for the respondent. Upon hearing the arguments of the both sides and upon perusing the materials on record and having stood over for consideration till this day, this court passes the following:

**ORDER**

This petition is filed under Order 39 Rule 1 and 2 of CPC seeking ad-interim injunction restraining the respondent and his men from disturbing the petitioner's absolute possession and enjoyment of the petition mentioned B schedule property till the disposal of the suit.

**2. GIST OF THE PETITION**

(2.1) Petitioner is the plaintiff in the suit. The suit A schedule property in S.F.No.112/6C was originally the ancestral property of petitioner's father Rangasamy

gounder. The said Rangasamy gounder died intestate on 01.09.2001 leaving behind the petitioner, his mother Muthathal, sisters Poornam @ Annapoorani, Chinnathangam @ Sagunthalamani and Bhagyalakshmi as legal heirs and they succeeded the suit A schedule properties and other properties. The mother and sisters of the petitioner executed a release deed on 27.11.2008 in favour of the petitioner and hence the petitioner became the absolute owner of the suit A schedule property.

(2.2) The respondent's agricultural land, coconut farm and residential house in S.F.No.112/5B2, 112/6A and 112/6B are located on the north and west of the suit properties. The said properties were originally belonging to the relatives of the petitioner and brother of plaintiff's father namely Nachimuthu gounder. The respondent property is located to the south of the east-west public road and the petitioner's property is located to the south of the respondent's property. There was a mamool cart track in east-west direction on the northern boundary of S.F.No.112/6A for the entire length to reach S.F.No.112/6C. The respondent and his father Arumugam had stated to petitioner's father Rangasamy gounder that the said mamool cart track is causing disturbance to them in multiple ways and asked him to use the north-south pathway in eastern side of the respondent property in S.F.No.112/5B2. Based on the same, the petitioner, his father and their predecessors had used the said cart tracks for more than 60 years without any disturbance. The cart track currently used by the petitioner starts from the southern boundary of the north south and east west public tar road and goes south in the eastern side of S.F.No.112/5B2 with width of 12 feet and reaches the petitioner property in S.F.No.112/6C. The said cart track is shown as suit B schedule property and rough sketch is annexed to show the same.

(2.3) Without the B schedule cart track, the petitioner, his heirs, his workmen, cattle and their carts, light vehicles and heavy vehicles cannot reach agricultural land in suit A schedule property. There is no other pathway to reach suit A schedule

property other than suit B schedule cart track. The right of the petitioner in the suit B schedule cart track is an easement. The petitioner has the same rights as his predecessors but the respondent is denying the same now.

(2.4) In order to obstruct the easement in suit B schedule property and with an ill intention to grab petitioner property, the respondent tried to erect stone pillars and put wirefence but the same was stopped by the petitioner. When the petitioner lodged the complaint about respondent before Pollachi west Police Station, they did not take any action as it was a civil dispute.

(2.5) The respondent have influence through men, politics and money and does not respect the law and hence he is ready to block the B schedule cart track with wirefence and steel gate. If the same happens, the petitioner's A schedule property will not be accessible and the petitioner would face irreparable loss. The illegal act of the respondent can be stopped only by a court order and hence the petitioner has filed this suit for declaration and permanent injunction. The prima facie case and balance of convenience are in favour of the petitioner. Hence the petition may be allowed.

### **3. GIST OF COUNTER**

(3.1) The suit is false, frivolous, vexatious and not at all maintainable either in law or on the facts of the case. This defendant denied the various allegations, allegations and claims made in the plaint except those that are specifically admitted herein and put the plaintiff to the strict proof of the same. This defendant most respectfully submits that the plaintiff is put to the strict proof of the averments made in para 4 of the plaint with respect to the suit "A" schedule properties.

(3.2) This defendant further most respectfully submits that the averments and allegations in para 5 of the plaint that properties situated in S.F.Nos.112/5B2, 112/6A, 112/6B has been owned by plaintiffs father Rangasamy gounder, his brother Nachimuthu gounder and his close relatives and the above said properties were situated on the south of the common road and on northern side of S.F.No.112/6A, an east west cart track was in existence and subsequently the plaintiffs father has been informed by the defendants father to use the north south way in S.F.No.112/5B2 and hence the plaintiffs father and his predecessors used the said north south cart track for past 60 years without any disturbance and the cart track being used by the plaintiff starts from the southern end of S.F.88 and go through S.F.No.112/5B2 as 12 feet width till reach the plaintiffs land in S.F.No.112/6C and the said cart track has been mentioned as "B" schedule property are all denied by this defendant as false and self serving.

(3.3) This defendant further most respectfully submits that the averments and allegations made in para 6 of the plaint that at present, without "B" schedule pathway, there is no access to for cattle's, plaintiff and his laborers, vehicles to the plaintiffs land and there is no pathway to the "A" schedule except the "B" schedule are all denied by this defendant as false and self serving. This defendant further most respectfully submits that the averments and allegations made in para 7 & 8 of the plaint that plaintiffs right in "B" schedule is the right of easement and the said easement right has been enjoyed by the plaintiff and his predecessors and the defendant is refusing the said right of the plaintiff and with intention to grab the plaintiffs property this defendant on 26.01.2025 tried to put up fence and the plaintiff thwarted the same and subsequently the plaintiff gave police complaint against the defendant and the police officials refuse to take action against the defendant are all denied by this defendant as false and self serving.

(3.4) This defendant further most respectfully submits that the averments and allegations made in para 9 of the plaint that plaintiff is not law abiding and he has men and matters and politically influenced and at any time defendant can prevent the plaintiff from using the "B" schedule cart track and if it happens then the plaintiff cannot reach "A" schedule and he may suffer loss and hardship and the defendants said illegal actions can be stalled only by the court order and hence the suit are all denied by this defendant as false and self serving.

(3.5) This defendant further most respectfully submits that the suit "B" Schedule of Properties as alleged in the plaint is not at all in existence at any point of time and the same was mentioned only for the purpose of filing the suit. This defendant further most respectfully submits that the defendant's properties adjacent to the plaintiffs property on north is S.F.No.112/5 which has been purchased by his father namely Thiru. Arumugham through the sale deed executed by Valliammal, W/o.Late Ramasamy gounder along her daughters (SRO, Pollachi Doc.No.3460/1996). The said Valliammal acquired the said property from her mother Nallammal, W/o.Kandee gounder. The said Nallammal died intestate and her only legal heir namely the said Valliammal became owner of the said property. At no point of time, the "B" schedule property was in existence in the said property. Moreover, the said properties are not belonging to the brothers and relatives of the plaintiffs and his father, as narrated by the plaintiff in the plaint.

(3.6) This defendant further most respectfully submits that the defendant's properties adjacent to the plaintiffs property on west is S.F.No.112/6A & 112/6B which has been purchased by his father namely Arumugham through the sale deed executed by Nachimuthu gounder and his sons and one of her daughter in law namely Radhamani (SRO, Pollachi Doc. No.91/1998).

(3.7) This defendant further most respectfully submits that Nachimuthu gounder, Palani gounder & Rangasamy gounder are the sons of Malayandi gounder. Initially, the properties in S.F.No.112/6 have been allotted to Nachimuthu gounder, Palani gounder and Rangasamy gounder. Subsequently, the said lands have been subdivided in to S.F.Nos. 112/6A, 112/6B & 112/6C respectively. The said S.F.No.112/B has been jointly purchased by Mysamy, S/o.Nachimuthu gounder and his wife Radhamani from Palani gounder, S/o.Malayandi gounder. Subsequently, the Nachiumuthu gounder, S/o.Malayandi gounder along with his sons, Murugesan, Velusamy, Mysamy and his daughter in law Radhamani sold the lands in S.F.No.112/6A & 112/6B to Arumugham. Hence, the said Arumugham become absolute owner of the lands in S.F.No.112/6A & 112/6B. The right of pathway to a width of 6 links from west to east in southern extreme in S.F.No.112/6B to reach S.F.No.112/6C has been specifically mentioned in Doc. No.91/1998. The remaining land in S.F.No.112/6 namely S.F.No.112/6C has been in the hands of the Rangasamy gounder who is the father of the plaintiff herein.

(3.8) This defendant further most respectfully submits that sold subsequently, the said Arumugham sold some portion of his properties and with respect to the remaining lands, he executed a Settlement deed (SRO, Pollachi Doc. No. 124/2015) in favour of this defendant. Even in the said document, the right of 6 links width, east west path way in Southern extreme has been recited specifically. Hence, it clear and evident from the said documents that the plaintiff's father has the right of path way to an width of 6 links on the Southern side of the defendant's property in S.F.No.112/6B from west to east. Other than the said path way, there is no right of path way in the defendant's property.

(3.9) This defendant further most respectfully submits that the plaintiff has no right what so ever in S.F.No.112/5B2. There is no cart track in existence as mentioned

in the "B" schedule property. It is the fit case to direct the advocate commissioner to revisit the suit properties in the presence of this defendant. This defendant further most respectfully submits that the pleadings with respect to the easement right are vague. Moreover, there is no right of easement available to the plaintiff in S.F.No.112/5B2. The defendant at no point of time prevent the plaintiff from using the 6 links width east west path way in S.F.No.112/6B. However, the plaintiff without claiming his actual right from the adjacent land owners who are his close relatives, trying to get unlawful right from this defendant by misleading this Court. The plaintiff is to be dismissed in limini since the plaintiff fails to produce any document which recites the right of cart track to his property.

(3.10) This defendant further most respectfully submits that the plaintiff has no right to prevent the defendant from using his property as he wishes. While the plaintiff tries to disturb this defendant from using his property peacefully, he gave police complaint and obtained receipt for the same. The plaintiff also gave complaint and upon enquiry, the plaintiff postpone to produce the documents with respect to his right of cart track in S.F.No.112/5B2. Subsequently, he requested the police officials not to take further action against this defendant.

(3.11) This defendant further most respectfully submits that with a malafide intention to somehow or other to harass this defendant, the Plaintiff cooked up the facts on his convenience and accord and filed the present false suit before this Hon'ble Court. Moreover, the right of easement as claimed by the Plaintiff is false, designed, and cooked up only for filing the suit. This defendant reserves his right to file an Additional Written Statement in this suit. There is no cause of action arose against this defendant for filing the suit. The alleged cause of action is a false one. The plaintiff had not properly valued the suit and the court fees paid by the plaintiff

are not correct. Therefore, this defendant prays that this Court may be pleased to pass an order to dismiss the suit with the cost.

#### **4. DISCUSSION**

(4.1) Heard both sides. Records perused. Rival submissions considered. In the present case, the petitioner seeks right of easement of pathway of 12 feet width in S.F.No.112/5B2 i.e. suit B schedule property to reach his property in S.F.No.112/6C i.e. suit A schedule property. The petitioner claims that he and his predecessors were originally using a pathway on the southern extreme of S.F.No.112/6A but on the request of the respondent and his father to the petitioner's father, they started using suit B schedule cart track in S.F.No.112/5B2. However, the petitioner has failed to mention when such request was made by the respondent and his father and when petitioner's father started using the suit B schedule cart track. It is pertinent to note that the respondent was only 29 years old when this petition was filed in 2025. The petitioner has stated that his father Rangasamy gounder died on 01.09.2001. Hence even if the said request was made on the date of death of Rangasamy gounder, the respondent would have been just 5 years old at that time and hence it creates suspicion over the alleged request made by respondent and his father.

(4.2) The petitioner claims that he has right of easement over the suit B schedule cart track but fails to mention what was the mode of acquisition of easement. The petitioner has not pleaded any written agreement between the parties and the alleged oral request was found suspicious and hence this court is of the view that the petitioner has failed to show easement by grant.

(4.3) The petitioner has pleaded that he has no other cart track other than suit B schedule cart track and that the properties of the defendant were once belonging to

close relatives of the petitioner. The petitioner has filed RSR entries Ex.P11 to show that the properties of the defendant were once belonging to close relatives of the petitioner. However, the said averments are not sufficient to show easement by necessity. To establish an easement by necessity, the owner must prove that:

- a) The dominant and servient estates were previously owned by the same person or entity
- b) The easement is reasonably necessary for use of the dominant estate
- c) The dominant estate became landlocked when the land was partitioned
- d) There is currently no means of entry or exit other than across the servient estate

(4.4) In the present case, the petitioner has not specifically stated when and how his properties were severed from the properties of the defendant. Further it is necessary that the dominant estate should have become landlocked only upon such severance. However, there is no such pleading of severance or petitioner property becoming landlocked by said severance. The RSR entries are not sufficient to show that suit A schedule property and suit B schedule property were once a single property owned by same person or entity. It is also pertinent to note that the petitioner property is in S.F.No.112/6C and hence it ought to have been lastly subdivided from S.F.No.112/6. Hence it is clear that S.F.No.112/5B2 would not have been lastly severed from S.F.No.112/6C. Hence from the aforesaid discussion, it is clear that the averments of the petitioner does not show easement by necessity.

(4.5) As per the averments of the petition, the suit B schedule cart track was requested by the respondent and his father to be used by the petitioner's father. In order to obtain easement by prescription, it is necessary that there was a hostile open continuous peaceful usage for 20 years. However in the present case, the petitioner has not mentioned as to when his alleged usage of suit B schedule cart track started

and hence there is no pleading as to period of alleged usage of suit B schedule cart track . The petitioner has only pleaded combined usage of both cart tracks to be more than 60 years. Furthermore as per the averment of the petitioner, the suit B schedule cart track was used by his father only on request of the respondent and his father thereby making the usage are permissive one and not hostile. Hence in consideration of the aforesaid discussion, this court is of the view that the petitioner has also failed to show easement by prescription. Therefore, it is seen that the petitioner has failed to show anyone of the modes of acquisition of easement and hence there is no prima facie case for his alleged right over B schedule property.

(4.6) The learned petitioner counsel has argued that the commissioner reports and plans have mentioned about the existence of tyre marks in the suit B schedule property and thereby proving the usage of said property as cart track by the petitioner. The learned counsel has also argued that the commissioner reports mentioned that the petitioner has no other access to which his suit A schedule property other than the suit B schedule cart track. As elucidated above, the petitioner has failed to aver how he got right to use the suit B schedule property as a cart track for his property. In absence of such averment, the existence of tyre marks or absence of other access to the suit A schedule property being mentioned in the commissioner reports will be of no avail to the petitioner as usage without right cannot be protected. It is clarified that this court has not given any finding as to usage of the suit B schedule cart track.

(4.7) Furthermore, the sale deed Ex.R3, by which the respondent's father bought the properties in S.F.No.112/6A and 112/6B, specifically mentions that the buyer (respondent's father) shall give 6 links wide east-west pathway on the southern side of the sale property to Range gounder to reach his property. This supports the defence of the respondent. The petitioner has not filed any documents to show that he has right of cart track in the suit B schedule property. The petitioner merely claims

his right over suit B schedule property only through an alleged oral request of respondent and his father which has been found to be suspicious. Hence, this court is of the considered view that the prima facie case and balance of convenience are not in favour of the petitioner.

(4.8) Moreover, despite only pleading easement over suit B schedule property, the petitioner has prayed for interim injunction to protect his absolute possession and enjoyment of suit B schedule property. Hence the prayer and pleadings are found to be in contradiction with each other. Hence the petitioner is not entitled to temporary injunction as prayed for.

(4.9) It is trite law that in order to be entitled to temporary injunction, one must prove that prima facie case and balance of convenience are in his favour and if the same is not granted he would be put to irreparable loss. The petitioner in the present case has not fulfilled all the three requirements and hence not entitled for the temporary injunction as prayed for. Hence, this court is not inclined to allow this petition.

IN THE RESULT, this petition is DISMISSED. Parties shall bear their own costs.

Dictated by me, typed by steno typist on my computer and corrected by me and pronounced by me in open court on this 29<sup>th</sup> day of April, 2026.

ADDITIONAL DISTRICT MUNSIF  
POLLACHI

**Petitioner side witnesses and documents-**

<b>Doc No.</b>	<b>Date</b>	<b>Name of the Documents</b>	<b>Nature of document</b>
Ex.P1	27.11.2008	Release deed	Xerox copy
Ex.P2	30.01.2025	Patta No.865	Online copy
Ex.P3	-	A register	Online copy
Ex.P4	-	Adangal	True copy
Ex.P5	-	VAO Certificate	Original
Ex.P6	-	FMB Sketch	True copy
Ex.P7	-	Village map	True copy
Ex.P8	21.02.2025	Complaint	Xerox copy
Ex.P9	28.01.2025	CSR receipt	Online copy
Ex.P10	-	Photo with GPS	Original
Ex.P11	-	RSR entries	True copy

**Respondent's side witnesses:** Nil

**Respondent's side Documents:**

<b>Doc No.</b>	<b>Date</b>	<b>Name of the Documents</b>	<b>Nature of document</b>
Ex.R1	08.01.2015	Settlement deed (Doc.No.124/2015)	Xerox copy
Ex.R2	18.09.1996	Sale deed (Doc.No.3460/1996)	Xerox copy
Ex.R3	21.01.1998	Sale deed (Doc.No.91/1998)	Xerox copy
Ex.R4	30.05.1988	Sale deed (Doc No.1719/1988)	Xerox copy
Ex.R5	31.03.2026	FMB Sketch	Xerox copy
Ex.R6	25.03.2026	FMB Sketch	Xerox copy
Ex.R7	25.03.2026	FMB Sketch	Xerox copy
Ex.R8	25.03.2026	FMB Sketch	Xerox copy
Ex.R9	-	Village map	Xerox copy
Ex.R10	-	Village map	Xerox copy

**Court Documents:**

<b>Doc No.</b>	<b>Date</b>	<b>Name of the Documents</b>	<b>Nature of document</b>
Ex.C1	14.03.2025	Commissioner report in IA.3/2025	Original

Ex.C2	14.03.2025	Commissioner plan in IA.3/2025	Original
Ex.C3	16.03.2026	Commissioner report in IA.6/2025	Original
Ex.C4	16.03.2026	Commissioner plan in IA.6/2025	Original

ADDITIONAL DISTRICT MUNSIF  
POLLACHI

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FAIR ORDER

Fair/Draft

I.A.No.2/2025 in O.S.44/2025

Date: 29.04.2025

Additional District Munsif Court, Pollachi

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