

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**

Thursday 25th day of September 2025

IA. No.2/2025

in

O.S. No.136/2025

Manikandan

.... Petitioner/ Plaintiff

-Vs-

1. Palanisamy
2. Devaraj
3. Parameswari

.... Respondents/Defendants

This Petition came up for final hearing before me in the presence of Thiru.N.Sundararaj, learned Counsel for the Petitioner and in the presence of the Thiru M.Umajagadesh, as learned counsel for the 1st and 2nd respondents and 3rd respondent set exparte. 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 respondents, their men and agents from any way interfering with petitioner's rights in using the suit 'B' schedule cart track till the disposal of this petition and grant an interim injunction of the same effect till the disposal of the suit.

2. GIST OF THE PETITION

(2.1) The petitioner is the plaintiff in the above suit. The above suit has filed for the relief of declaration and injunction. The petitioner stated that he is the absolute owner of the suit "A" schedule property. He derived the suit "A" schedule property through a registered partition deed effected on 27.04.2021 between his father Sivasamy, his sister Smt. Nandhini and himself. The properties which have been described as "B" schedule in the partition deed has been allotted to him and the same is the suit "A" schedule property described hereunder. He stated that since 27.04.2021, he has been in possession and enjoyment of the same till this date. He stated that the suit "B" schedule property is the cart track through which only he has been and is reaching the suit "A" schedule property.

(2.2) The petitioner has stated that the suit "A" schedule property and other properties were absolutely belonged to his paternal grant father namely Arumuga gounder ancestrally through a registered partition deed dt 14.03.1952. The petitioner's paternal grandfather had enjoyed all his properties till this demise. His paternal grandfather died very long back. After the demise of his paternal grandfather Arumuga gounder, his legal heirs (i.e) three sons namely 1. Palanisamy, 2. Ramasamy and 3. Sivasamy and one daughter namely Mylathal were become the owners to the assets of above said Arumuga Gounder and enjoyed it jointly and commonly.

(2.3) The petitioner has stated that this was being so, on 21.08.2000, the above said legal heirs of Arumuga gounder, had entered in to a partition and they divided the properties belonged to the above said Arumuga gounder through a registered partition deed bearing No. 1749/2000 of Kinathukadavu Sub-Registrar office. In that partition deed the property described as "A" schedule, were allotted to the 1st respondent. The property described as "B" schedule in the above said partition were

allotted above said Ramasamy. Like that the properties described as "C" schedule in the above said partition deed were allotted to the petitioner's father Sivasamy. The "D" schedule property (i.e) joint family fund was allotted to the above said Mylathal. On the same day itself, the parties to the partition deed dt 21.08.2000, had taken the possession of their respective properties and had enjoyed it.

(2.4) The petitioner has stated that at the time of partition took place, the parties to the partition (e) the petitioner's father and paternal uncles have left a common cart track, through the lands of above said three persons namely 1. Palanisamy, 2. Ramasamy, and 3. Sivasamy for reaching their respective lands. In the partition deed dt 21.08.2000, in, பொதுவூரா and in all three schedule of the properties the recitals in respect of the cart track has been mentioned as follows "மேற்படி பங்கு பூமிகளுக்கு கிழமேல் மெயின் ரொட்டில் இருந்து க.ச.122/3ஏ நெ.க.ச 121/5சி நெ.காலைகளில் 1 இலக்கமிட்ட பழனிச்சாமி பங்கு பூமியிலும், 3 இலக்கமிட்ட சிவசாமி பங்கு பூமியிலும், கிழமேட்டில் கிழமேல் 20 லிங்ஸ் அகலத்தில் தென் வடலாகவும், சிவசாமி பங்கு பூமியில் வடபுரம் கிழமேலாகவும், க.ச.121/5சி நெ.காலையில் 2 இலக்கமிட்ட ராமசாமி பங்கு பூமியில் மேல்கோட்டில் கிழமேல் 20 லிங்ஸ் அகலமுள்ள தென்வடல் தடத்திலும், மேற்படி 1, 2, 3 இலக்கமிட்ட பழனிச்சாமி, ராமசாமி, சிவசாமி ஆகிய மூவரும் ஆட்கள், கால்நடைகள், வண்டி, வகையராவும், லாரி, டெம்போ, டிராக்டர் போன்ற சகல வாகனாதிகளையும், இரண்டு சக்கர வாகனாதிகளையும் மேலே கண்ட அவரவர்கள் பங்கு பூமிகளுக்கும், பொது கிணறுகளுக்கும் ஓட்டிக் கொண்டு போகவும், வரவும் உள்ள மாமூல் தட பாத்தியமும் மூவருக்கும் பாத்தியப்பட்டது. க.ச.121/5சி நெ.காலை 3 இலக்கமிட்ட கிழமேல் பங்கு பூமியிலும், 1 இலக்கமிட்ட பழனிச்சாமி பங்கு பூமியிலும், மேற்படி 20 லிங்ஸ் தென்வடல் தடத்தைத் தொடர்ந்து தென்கோட்டில் தென்வடல் 10 அடி அகலமுள்ள கிழமேல் தடத்துக்கு மூவரும்

அவரவர்கள் பங்கு பூமிகளுக்கு ஆட்கள், கால்நடை, வண்டி வகையறா, லாரி, டெம்போ, டிராக்டர் போன்ற சகல விதமான வாகனாதிகளையும், வகையறா, இரண்டு சக்கர வாகனாதிகளையும் ஓட்டிப் போகும் தடம், போகவும், வரவும் உள்ள மாமூல் தட பாத்தியமும், மூவருக்கும் பொதுவாக பாத்தியப்பட்டது."

(2.5) The petitioner has stated that as per recitals in the partition deed dt 21.08.2000, it was in convenient his father and his brothers to use the cart track as mentioned in the partition deed runs in his father's land (now plaintiff's land) and Ramasamy's land situates in S.F.No.121/5C. So, the cart track was formed on the earthen part of the land belongs to his father (now land belongs to me) (i.e) 0.68 acre in S.F.No.121/5C in North-South direction and then continuously in East-West direction towards west up to middle of the land and then again in North-South direction in the middle of the above land up to Ramasamy's 1.03 acres of land in S.F.No.121/5C as then continuously in North-South direction in the middle of the above said Ramasamy's land and then East-West direction towards west and then turns towards north and runs on the extreme western part of Ramasamy's land as detailed in the partition deed. But as mentioned in the partition deed dt 21.08.2000, the cart track is situated in the lands comprises in S.F.No.121/3A belongs to his father (now himself) and the 1st respondent herein and no changes in that part. The cart track now in existence is as detailed above and the same has been described as suit "B" schedule hereunder. The deviation of cart track has taken place in his father's land and Ramasamy's land only but not in the 1st respondent's land.

(2.6) The petitioner has stated that since the date of partition his father, 1st respondent and his paternal uncle Ramasamy have been used the suit "B" schedule cart track to reach their respective lands and common well and other parts of land. He also stated that after became the owner to the suit "A" schedule properties, as like his

father, he has been using the suit "B" schedule cart track to reach his lands and as well as common well and other parts of his land. Not only himself, the 1st respondent has also been and is using the suit "B" schedule cart track to reach his land till this date. The petitioner has stated that the 1st respondent is the father of the respondent 2 and 3. The 3rd respondent is working as a constable in Tamil Nadu Police Department. The 2nd respondent is doing the agricultural operations along with the 1st respondent in the properties belonged to the 1st respondent.

(2.7) The petitioner has stated that he was working as an employee in a private company situated near by Kinathukadavu. After he became the owner to the suit properties, no cordial relationship is existence between him and respondents. Due to that the respondents have developed enmity against him. Because of that in the middle of month April 2025, the respondents 1 & 2 made attempt to restrain him in using the suit "B" schedule cart track. But he defeated it. Immediately he approached the Kinathukadavu Police and the same was went in to vain since the 3rd respondent who is working in the Police department influenced the Police and stopped the further proceedings against the respondent 1 & 2. Further whenever the 3rd respondent came to her native, she caused threatening to him and his men while using the suit "B" schedule cart track by saying that she is working in Police department and a false case will be registered against him and his men. Due to that threatening of the 3rd respondent, the coolie workers are fearing to come to agricultural works in his land. In this juncture on 21.06.2025, the respondents 1 & 2 colluded together and made attempt to restrain him in using the suit "B" schedule cart track. But the petitioner has defeated it with great hardship and till this date the respondents are doing the same illegal acts. Their illegal acts can be restrained only by the order of this Hon'ble court.

(2.8) Hence it is just and necessary that this Hon'ble court may be pleased to grant an ad-interim injunction by restraining the respondents their men and agents

from any way interfering with petitioner's rights in using the suit "B" schedule cart track till the disposal of this petition and grant an interim injunction to the same effect till the disposal of this suit.

3. GIST OF COUNTER

(3.1) The present petition filed by the Plaintiff seeking an interim injunction is not maintainable either in law or on facts and is liable to be dismissed in limine. The Plaintiff has approached this Hon'ble Court with unclean hands, having suppressed material facts and misrepresented the true state of affairs, only to harass the Defendants. The Plaintiff is the owner of the "A" Schedule property through the Partition deed dated 27.04.2021. However, the "B" Schedule cart track is not his exclusive right. The said cart track was allotted to both Plaintiff and Defendants in the Partition Deed dated 21.08.2000, and the Defendants have every right to use the same. The Plaintiff has wrongly alleged that the Defendants are restraining him from using the cart track.

(3.2) On contrary, it is the Plaintiff who is attempting to illegally extend his right of way up to the newly purchased land in Survey No. 121/5A, which already have independent access pathways, without consulting the Defendants or his paternal uncle, Ramasamy. The Plaintiff and his father have already encroached portions of the Defendants' shares in Survey No.121/5A, which came to light during the survey proceedings on 07.07.2025, initiated on the application of the 1st Defendant before the Tahsildar, Kinathukadavu. The Plaintiff and his father deliberately objected to the survey proceedings to conceal such encroachments. The Plaintiff has also created a false story alleging enmity and obstruction, and has even dragged the 3rd defendant, a police constable, with wild and baseless allegations, only to malign her reputation. No such incident as alleged on 21.06.2025 ever took place, and the police, upon

enquiry, found no fault on the side of the Defendants. It is well settled that a party seeking an injunction, there is no prima facie case, and balance of convenience, and irreparable injury. In the present case, the Plaintiff fails on all three counts:

a) The Plaintiff has no exclusive right over the "B" Schedule cart track.

b) The balance of convenience is in favour of the Defendants, who have a legitimate and recorded right under the Partition Deed.

c) No irreparable injury will be caused to the Plaintiff, as he already has separate access to his newly purchased property, whereas granting injunction will severely prejudice the Defendants' rights.

(3.3) The Plaintiff has thus approached this Hon'ble Court with false allegations, suppression of material facts, and malafide intention to create documents for illegally extending the cart track to his new property. Hence the petition may be dismissed.

4. DISCUSSION

(4.1) Heard both sides. Records perused. Rival submissions considered. In the present case, the title of the petitioner in respect of the suit A schedule property through partition deed Ex.P3 dated 27.04.2021 has been admitted. The 1st and 2nd respondents in their counter, have admitted that B schedule cart track was allotted to both plaintiff and defendants in the partition deed Ex.P2 dated 21.08.2000. The respondents have claimed the the said cart track is not the exclusive right of the petitioner as the respondents have every right to use the same. However the petitioner in the present petition had not claimed any exclusive right over the cart track but had sought prayer to protect his rights in usage of the same. Hence there is no question as to existence of and petitioner's right over the B schedule cart track.

(4.2) The respondents have denied the allegation that they are restraining the petitioner from using the cart track. The respondents have alleged that the petitioner

is attempting to illegally extent his right of way upto the newly purchased land in survey no.121/5A which already have independent access pathways, without considering the defendants or his paternal uncle Ramasamy. The respondents also alleged that the petitioner and his father have encroached portions of respondents' shares in survey No.121/5A which came to light during the survey proceedings on 07.07.2025, initiated on the application of the 1st Defendant before the Tahsildar, Kinathukadavu and hence the petitioner and his father deliberately objected to the survey proceedings to conceal such encroachment. It is to noted that the suit B schedule cart track runs through S.F.Nos.122/3A and 121/5C only. Hence any allegations of encroachment in S.F.No.121/5A is to be taken up by the respondents through separate proceedings and it is irrelevant in light of the present petition. Further the allegation of petitioner's illegal attempt to extend the suit cart track to their newly purchased land in S.F.No.121/5A can be determined only in the course of full fledged trial. Further as per the partition deed Ex.B2, there appears to the no restriction clause against the alleged extension of right of way in petition cart track. The respondents have not been clear as to whether the extension of right of way in petition cart track goes through any other property belonging to them besides the petition cart track. Hence it is one to be decided in course of trial.

(4.3) The respondents have denied the allegation that they are restraining the petitioner from using the suit cart track. On perusal of complaint Ex.P9 and CSR Ex.P10, it can be seen that there has been a dispute between the parties over the usage of petition cart track and it has been alleged that the respondents have threatened the petitioner from using their petition cart track. The complaint Ex.R13 given by the 1st respondent states that coconut trees are being planted in the encroached area by the petitioner and this suit is pending related to the said encroachment and cart track. Hence it is shows that there is dispute between the parties in the usage of petition cart track.

(4.4) The learned petitioner counsel had submitted that due to the dispute over the B schedule cart track, the petitioner is unable to transport his plucked coconuts from his property and due to the same, the plucked coconuts have begun sprouting and thereby causing loss to the petitioner. The photographs Ex.P11 show heaps of coconuts sprouting. The photographs Ex.R14 filed by the respondent also shows that there are heaps of coconuts in the suit property. Hence this shows that if injunction is not granted, the petitioner will be put to irreparable loss.

(4.5) The 1st and 2nd respondents in their counter, have admitted that B schedule cart track was allotted to both plaintiff and defendants in the partition deed Ex.P2 dated 21.08.2000. Merely because there is a dispute of encroachment between the parties at a different portion of the properties, the respondents cannot simply deny the petitioner's right of way in the B schedule cart track which has been enshrined in the partition deed Ex.P2 dated 21.08.2000 and admitted by the respondents themselves. Hence in cumulative effect of the aforesaid discussion, this court is of the considered view that the prima facie case and balance of convenience are in favour of the petitioner.

(4.6) 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 fulfilled all the three requirements and hence is entitled for the temporary injunction as prayed for. Hence, this court is inclined to allow this petition.

IN THE RESULT, this petition is ALLOWED by granting interim injunction restraining the respondents, their men and agents from any way interfering with

petitioner's rights in using the suit 'B' schedule cart track till the disposal of this suit. 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 25th day of September, 2025.

Sd/.....(M.S.SREENATH)
ADDITIONAL DISTRICT MUNSIF
POLLACHI

Petitioner side witnesses - NIL

Petitioner side documents:

Doc No.	Date	Name of the Documents	Nature of document
Ex.P1	-	Sale deed (Doc.No.279/1952)	Certified copy
Ex.P2	21.08.2000	Partition deed	Certified copy
Ex.P3	27.04.2021	Partition deed (Doc No.3826/2021)	Certified copy
Ex.P4	24.03.2025	Patta No.49	Online copy
Ex.P5	-	Sketch	Certified copy
Ex.P6	-	Field map	Certified copy
Ex.P7	-	Adangal	Certified copy
Ex.P8	-	Photo and CD	Original
Ex.P9	09.09.2025	Police complaint letter	Copy
Ex.P10	15.09.2025	Petition receipt	Online copy
Ex.P11	-	Photo and CD	Original

Respondent's side witnesses: Nil

Respondent's side Documents:

Doc No.	Date	Name of the Documents	Nature of document
Ex.R1	31.03.1995	Sale deed (Doc No.776/1995)	Certified copy
Ex.R2	21.08.2000	Partition deed (Doc.No.5604)	Certified copy

Ex.R3	17.02.2017	Partial Release deed (Doc.No.664/2017)	Certified copy
Ex.R4	27.04.2021	Partition deed (Doc No.3826/2021)	Certified copy
Ex.R5	-	Sketch of S.F.No.121/5A	Online copy
Ex.R6	-	Sketch of S.F.No.122/3A	Online copy
Ex.R7	-	Sketch of S.F.No.121/5C	Online copy
Ex.R8	-	Sketch of S.F.No.121	Online copy
Ex.R9	22.05.2025	Application for Sub division patta transfer	Online copy
Ex.R10	-	Notice of Tahsildar, Kinathukkadavu	Copy
Ex.R11	-	Patta No.1473	Online copy
Ex.R12	15.09.2025	Certificate of Encumbrance on property	Online copy
Ex.R13	19.09.2025	Police complaint letter	Copy
Ex.R14	20.09.2025	Photos	Original

Sd/.....(M.S.SREENATH)
 ADDITIONAL DISTRICT MUNSIF
 POLLACHI

FAIR ORDER

Fair/Draft

I.A.No.2/2025 in O.S.136/2025

Date: 25.09.2025

Additional District Munsif Court, Pollachi
