

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

**Present : Tmt.M.Santhosham., B.Sc., B.L.,**

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 7<sup>th</sup> day of Month of Aippasi

Friday the 24<sup>th</sup> day of October 2025

**I.A.No.2/2025**

**in**

**O.S.No.11/2025**

K.Senniappan

**... Petitioner/Plaintiff**

**/VS/**

M.Boopathi

**...Respondent/Defendant**

This petition is coming on this day for final hearing before me in the presence of Tmt.B.Selvakadambari, Advocate for the Petitioner/Plaintiff and Mr.S.Balakumar, Advocate for the Respondent/Defendant and upon perusing the records, and this court made the following:

**ORDER**

This petition filed by the petitioners under order 39 rule 1 and 2 R/W Section 151 of CPC to grant an order of temporary injunction restraining the respondent and his men and agents not to take possession of the east west pathway extending to 10 X 53 feet, shown as ABCD in rough sketch and also grant an order of ad-interim injunction not to disturb the plaintiffs peaceful possession and enjoyment of the suit schedule property which is the only pathway to the plaintiff and his family members to enter into his house, shown as ABCD in the plaint plan till the disposal of the suit.

**1. The brief averments of the affidavit filed by the petitioner as follows:**

1.1. Petitioner is residing in above said address with petitioner family for

the past many years. The suit property is situated at Moppiripalayam village in S.F.No.816/5 to a extent of 3678 Sq.ft or 350 Sq.mtrs land with R.C.C house along with EB connection, water connection and all other appurtenances attached thereto which is more fully described in schedule of property given. Under may be herein after called as suit property கிழமேல் தென்புறம் கிழகோட்டிலிருந்து மேற்கு நோக்கி 19.2 மீ மற்றும் கிழமேல் வடபுறம் கிழகோட்டிலிருந்து மேற்கு நோக்கி 4.0 மீ, தொடர்ந்து தெற்கு நோக்கி 0.4 மீ, தொடர்ந்து மேற்கு நோக்கி 12.2 மீ, which was belongs to petitioner father Late Krishna Gounder by virtue Natham Patta No.265 issued in the year 1990. After the demises of said Krishna Gounder, petitioner mother Ramathal, Petitioner sister Valliammal and Sarasumani and Petitioner became the owners of the suit property and were in possession and enjoyment in the suit property. Later on 26.02.2007. the petitioner mother and sisters had executed the release deed in favour of petitioner by virtue of Release Deed Document No.1361/2007, SRO Annur. As per said release deed petitioner had become the absolute owner of the property.

1.2. The respondent is the absolute owner of the adjacent property of the suit property by virtue of sale deed document No.6819/2020 which was registered in SRO, Annur dated 30.09.2020. After execution of release deed of the suit property. Petitioner had mutated all the revenue records in petitioner name and also obtained patta No.265 in petitioner name and also paying Electricity Bill, Water Tax, Property Tax, to the said suit property which stands in petitioner name without fail. The respondent is residing in the adjacent house of petitioner house that is in S.F.No.816/4 which is north side of the plaintiff property. There is a 10 feet width path way up to 53 feet length east – west direction which is in south side of the respondent house is the only pathway allotted to petitioner use to enter into petitioner house shown as ABCD in rough sketch but this respondent does not have any rights over the said 10 X 53 feet path way which is in the south side of the house of the respondent.

1.3. The respondent is trying to take possession in said pathway and parking his car in the said pathway and obstructing the entrance of petitioner house, which is only pathway to enter into petitioner house and hence always giving the trouble and threatening petitioner and petitioner family members not to enter into the said pathway and also many times prevented petitioner not to enter in pathway which is 10 X 53 feet pathway shown as ABCD in rough sketch by saying that the pathway is common for both of them without any document and without any proper revenue records. Further respondent is having the sufficient lands as per his document. But he is purposely for the past six months has been given trouble to the plaintiff and his family members. On 25.11.2024 the respondent along with rowdy element all was suddenly forcefully trying to take possession of the 10 X 53 feet pathway shown as ABCD in rough sketch to get illegal benefits, petitioner and Petitioner family members with the help of other neighbors was prevented and secured from the respondent. Petitioner has given complaint to the Karumathampatti police station and detailed enquiry was conducted, finally they had advised the both the parties to approach the appropriate court since it was a civil dispute. Hence the plaintiffs had no other way rather than knocking the door of this court to get justice has been forced to file this suit before this court.

1.4. Petitioner and Petitioner family members are in possession of the suit property more than 30 years. The respondent is the political influenced person and also rich people were trying to purchase the land of the plaintiff in the short cut route. Hence they were giving continuous trouble for petitioner and trying to disturb the peaceful possession and enjoyment of the plaintiff. Hence there is no other way to file the suit. The respondent at any time may disturb petitioner peaceful possession and enjoyment of the suit property which is the 10 X 53 feet pathway belongs only to petitioner. At any time, the respondent may enter into the suit property. Hence this petition is to be allowed.

**2. The brief averments of Counter statement filed by the Respondent as follows:**

2.1. The petition is false, frivolous, vexatious and not maintainable both under law and on the facts of the case. The petitioner produced only a copy of the first page of patta with regard to S.F.No.816/5 only, but the other page of patta (back side of patta) has not taken a Xerox, because on the back side of the patta a site map with measurement has been found and that the petitioner wantonly failed to produce the said page. The description of property has been wrongly mentioned in the schedule for his convenience.

2.2. This respondent admitted that the he is adjacent land owner of the suit property. The respondent purchased the property in New S.F.No.816/4 (Old S.F.No.241) from Mahalingam, S/o.Ponnusamy @ Rangasamy through registered sale deed dated 30.09.2020, vide document No.6819/2020. Originally the property in S.F.No.816/4 belonged to Ponnusamy @ Rangasamy, S/o.Nanjappa gounder. The respondents property and its measurement have been clearly mentioned in the patta itself and the respondent is in possession, occupation and enjoyment of the property what he purchased.

2.3. The said 10 X 53 pathway mentioned in the plaint well as petition is imaginary one and the plaint plan annexed in the plaint is not drawn as per the patta as well as documents issued by the Revenue department. The petitioner has not produced any document that the said alleged pathway 10 X 53 has been allotted to the petitioner and further the petitioner does not produce any survey sketch and FMB to prove the 10 X 53 pathway and further the plaintiff has not stated in the plaint who allotted the said alleged pathway to the petitioner.

2.4. The petitioner described that the measurement of the alleged pathway 10 X 53 and the respondent stoutly denied the said pathway and further the said pathway is imaginary one and the said alleged measurement of 10 X 53 which

including the respondents property with an intent to grab the property of the respondent and further the erstwhile owner of the respondent left the property on his southern side for the purpose of white wash and maintenance of wall his house property and this petitioner has no right over the said property as alleged in the plaint as well as petition.

2.5. The petitioner is trying to encroach the southern side of the respondents property and the same was prevented by the respondent lawfully and he has got every right to safeguard his possession of the property and further the petitioner claiming exclusive right over the respondents southern side of the property and that there is a dispute arose between the respondent and petitioner with regard to the boundaries of the properties. Therefore, the respondent advised the petitioner to measure the both properties with assistance of Taluk Surveyor to settle the boundary issues between them and the Petitioner also accepted the proposal given by the respondent. Therefore, the respondent gave application to measure the properties by the surveyor, Sulur Taluk and the dated was fixed to measure the property on 13.02.2024 and notice also properly issued to all the parties and on the day the petitioner obstructed and prevented the surveyor to measure both properties with malafide intention and that the surveyor left without measuring the properties. The respondent again gave application to measure the property and the date was fixed on 07.03.2024 and on the day itself the petitioner and his family members prevented the surveyor for measure the property. Therefore the respondent seeking police aid through VAO for measuring Village, suggested the properties should be measured with the police protection. The police warned the illegal acts of the petitioner and his family members and advised to co-operate the measurement of the property and the petitioner agreed to measure the property and that the respondent again gave an application for measure the property and date was fixed again 29.05.2024 and the petitioner and his family members also gave a complaint that the respondent encroached the petitioners property and temple land and the property has been

measured in front of Police, President of Mopiripalayam Village and finally, the respondent has not encroached any portion of the land of petitioner and temple and also Surveyor clearly state that this petitioner has no pathway right as mentioned in the plaint measuring about 10 X 53. The petitioner suppressed the said facts or his convenience. When the respondent took steps to laying a sewage pipe line on the southern side of the his property, the petitioner with malafide intention he and his family members prevented the pipe laying workers from the entering the southern side of the property and immediately filed a false suit against the respondent for the purpose to grab the property of the respondent.

2.6. The petitioner has not produced any document such as revenue records and title deeds with regard to alleged path way measuring 10 X 53. The petitioner has to prove the alleged cause of action. The said alleged pathway is no a described in the plaint as well as in the petition. The respondent has not disturbing the possession of the petitioners property, but the petitioner and his family members disturbing the properties of the respondents peaceful possession, occupation and enjoyment as well as respondents tenants and the petitioner and his family members are casing nuisance to the respondents tenants by knocking windows and throwing stones to the property of the respondent. There is no pathway 10 X 53 alleged in property.

2.7. This court has granted ad – interim injunction and also directed the petitioner to comply order XXXIX Rule 3 of CPC, but the petitioner has to sent a copy of plaint documents to the respondent. As against him only on the date of 1<sup>st</sup> hearing. Therefore the said order of injunction should be extended and further the petitioner has not complied the order of injunction within 24 hours. The plaint document are no way connected with the prayer sought for the petitioner and the plaint Document No.11 is a photographs cannot be taken in to consideration for deciding the matter. There is no prima facie case and the balance of convenience is

not in favour of the petitioner. The petitioner has no right to park the car on the respondents property. There is no cause of action and the alleged cause of action is false. Hence, the petition is to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

#### **4. Points for Consideration:-**

Whether the petition under order 39 rule 1 and 2 R/W Section 151 of CPC to grant an order of temporary injunction is to be allowed?

#### **5. Points :-**

5.1. The petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The Main suit is filed for Permanent Injunction against the petitioner/defendant. The original suit is currently pending for framing of issues.

5.2. Petitioner side stated that, the respondent is residing in the adjacent house of petitioner house that is in S.F.No.816/4 which is north side of the petitioner/plaintiff property. There is a 10 feet width path way up to 53 feet length east – west direction which is in south side of the respondent house is the only pathway allotted to petitioner use to enter into petitioner house shown as ABCD in rough sketch but this respondent does not have any rights over the said 10 X 53 feet path way which is in the south side of the house of the respondent. The respondent is trying to take possession in said pathway and parking his car in the said pathway and obstructing the entrance of petitioner house, which is only pathway to enter into petitioner house and hence always giving the trouble and threatening petitioner and petitioner family members not to enter into the said pathway.

5.3. The respondent objected that, the said 10 X 53 pathway mentioned in the plaint well as petition is imaginary one and the plaint plan annexed in the plaint is not drawn as per the patta as well as documents issued by the Revenue department. The petitioner has not produced any document that the said alleged pathway 10 X 53 has been allotted to the petitioner and further the petitioner does not produce any survey sketch and FMB to prove the 10 X 53 pathway and further the plaintiff has not stated in the plaint who allotted the said alleged pathway to the petitioner.

5.4. The petitioner described that the measurement of the alleged pathway 10 X 53 and the respondent stoutly denied the said pathway and further the said pathway is imaginary one and the said alleged measurement of 10 X 53 which including the respondents property with an intent to grab the property of the respondent and further the erstwhile owner of the respondent left the property on his southern side for the purpose of white wash and maintenance of wall his house property and this petitioner has no right over the said property as alleged in the plaint as well as petition.

5.5. Both parties were heard. The original suit has been filed seeking for Permanent Injunction reliefs. In this situation, as stated by the petitioner, the 10 X 53 feet path way which is in the south side of the house of the respondent, which is only pathway to enter into petitioner house. The respondent stated that, the said alleged measurement of 10 X 53 which including the respondent's property. When considering whether the petitioner entering his house the respondent is interfering with the right of usage over the said pathway, it is noted that the petitioner has not submitted any documents in support of his claim. Similarly, the respondent has also not submitted any documents.

5.6. In the petitioner's side, it has been stated that the respondent is trying to take possession in said pathway and parking his car in the said pathway and

obstructing the entrance of petitioner house. On the other hand, the respondent has claimed that the said pathway is including respondent's property. Whether the pathway is common or not? Or the pathway is only for petitioner or respondent? It can be determined, only through the documents and evidence submitted by both parties at the conclusion of the original trial, whether the relief sought by the plaintiff is admissible. Hence, in the interest of justice, the above petition is dismissed. No cost.

***In the result, this petition is dismissed. No cost.***

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 24<sup>th</sup> day of October 2025.

Sd/M.Santhosham

**District Munsif,**

**Sulur.**

Draft/ Fair Order  
I.A.No.2/2025 in  
O.S.No.11/2025  
Dated:24.10.2025  
DMC, Sular