

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 4th day of Markazhi

Friday the 19th day of December

I.A.No.2/2025

in

O.S.No.35/2025

1. M.Sharmila

... Petitioner/Plaintiff

VS/

1. S. Shanumugasundaram

2. Kalamani

3. Kandiban

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.S.Dhamotharan, Advocate for the Petitioner/Plaintiff and Thriu.R.Jayakumar Advocate for 1st and 2nd Respondents and Tmt.T.Dhanusiya Advocate for 3rd Respondent and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under order 39 rule 1 of CPC to pass an order of temporary injunction restraining the respondents, their men or agents or anyone from disturbing the petitioner's easement rights over the item 2 of the petition mentioned properties for ingress and egress to the item 1 of the petition mentioned properties both by placing the stones or fencing the barbaric wires in the item 2 of the petition mentioned properties and by showing the artificial boundaries invented in the sale deed dated 18.03.2025 or otherwise and pass ad-interim injunction till the disposal of the accompanying application.

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

1.1. Petitioner have filed the suit for declaration and Permanent Injunction against the respondents. The respondents are the adjacent owners of Petitioner property. The property of the respondents is situated in S.F.No.321/5B of Mopperipalayam Village in Sular Taluk by which petitioner property has the rights of ingress and egress to it. Item 1 of the petition mentioned properties wa purchased by petitioner by virtue of the sale deed dated 25.07.2018 and registered as Doc.No.4764/2018 in the office of Sub-Registrar, Annur. Since the date of purchase of the said property petitioner in settled possession and enjoyment of the petition mentioned property without any let and hindrance.

1.2. Item 1 of the petition mentioned properties was purchased by petitioner from the legal heirs of deceased Palanisamy @ Palani Gounder namely 1.P.Shanmugam, 2.P.Natarajan, 3.P.Sundaram, 4.Amaravathi, 5.K.Amirtham, 6.S.Indhumathi, 7. S.Kathiresan, 8.S.Murugesan, 9.Rajeswari and 10.K.Dharani. It is pertinent to note the said Palanisamy @ Palani Gounder, the father of the 1st and 2nd respondents namely Subbana Gounder and Marappa Gounder partitioned their ancestral properties by virtue of the partition deed dated 20.08.1970 and registered as Doc.No.770/1970 in the office of Sub-Registrar, Annur by and under which said deceased Palanisamy @ Palani Gounder was allotted item 1 of the petition mentioned properties as B-Schedule property in the said deed. It is pertinent to note that the right of access to the item 1 of the petition mentioned properties was confirmed through said deed, which is described as item 2 of the petition mentioned properties. The predecessor in title of the item 1 of the petition mentioned property was also utilizing the said item 2 of the petition mentioned properties for ingress and egress to his property since the date of partition.

1.3. Item 2 of the petition mentioned properties is only pathway by which the item 1 of the petition mentioned property has the right of ingress and

egress over it. The item 1 of the petition mentioned properties has only the right of access through the item 2 of the properties. Except the item 2 of the petition mentioned properties, item 1 of the petition mentioned properties does not have any other alternative pathway. The 1st and 2nd respondent along with their family members entered into a partition deed dated 06.06.2019 and registered as Doc.No.4410/2019 in the office of Sub-Registrar, Annur. Mere perusal of the said partition deed would reflect the existence of item 2 of the petition mentioned property.

1.4. On 18.03.2025 the 1st respondent, Son of Late.Subbana Gounder, brother of predecessor in title of the plaintiff, has with a view to prevent petitioner ingress and egress, brought out a sale deed dated 18.03.2025 and registered as Doc.No.3968/2025 in the office of Sub Registrar, Annur in favour of 3rd Respondent in respect of portion of the property in S.F.No.321/5B. The 1st respondent has determined to prevent the item 2 of the petition mentioned property to reach item 1 of the petition mentioned property. Accordingly, in the said sale deed, the property sold is shown as though the said property were situated at south side of north – south pathway. By showing the said boundary petitioner right of access in S.F.No.321/5B is denied. The boundaries invented in the sale deed dated 18.03.2025 and registered as Doc.No.3968/2025 in the office of the Sub-Registrar, Annur do not blind and take away the easementary rights of petitioner over the item 1 of the petition mentioned properties.

1.5. On 21.03.2025 the true face of the respondents came to light when the respondents attempted to fence the property sold to 3rd respondent by closing the pathway which is described as item 2 of the petition mentioned properties herein with a view to totally destroy or prevent the access of petitioner to the item 1 of the petition mentioned properties, which was thwarted by petitioner with assistance of neighbours who knew the pathway rights over the property of the respondents. The 3rd respondent in collusion with the 1st and 2nd apparently expressed to petitioner as if

petitioner had not had the easementary right over the property in S.F.No.321/5B and demanded petitioner to made sale of item 1 of the petition mentioned properties to the 3rd respondent for the rate to be fixed by 3rd respondent only. Till date, petitioner has been using the item 2 of the petition mentioned properties for ingress and egress to the item 1 of the petition mentioned propeties without any let and hindrance.

1.6. On 21.03.2025 petitioner went to the police station with a view to give the complaint against the respondents. The police officials hearing all the facts not only refused to entertain the complaint but also advised to approach property civil forum to get remedy in view of civil nature. Unless the temporary injunction is granted the petitioners will be put to great loss and much hardship. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 1st & 2nd Respondent as follows:

2.1. The petition is not maintainable either in Law or on the facts of the case. The petitioner is put to strict proof of all the allegations made in the affidavit except those which are admitted herein by these respondents. This petition and suit is a gross misuse of judicial process. The petitioner have suppressed very many material particulars and the real facts that one Marappagounder, Palanigounder and Subbanna Gounder into a registration partition deed dated on 20.08.1970. In the above said partition deed an extent of 2.08 ³/₄ Acres in S.F.No.321 of Mopiripalayam Village and other properties were allotted to the Subbanna Gounder. In the above said partition deed dated on 20.08.1970 recitals as follows

“3 ம் லக்கமிட்ட சுப்பணகவுண்டர் தனக்கு பாத்தியப்பட்ட க.ச.321 நெ.காலையில் தன்பங்கு மேல்கோட்டில், காடு அறுவடை செய்யும் காலங்களிலும், குப்பைமண் எடுக்கும் காலங்களிலும் வண்டிகால் நடை வகையறா ஓட்டிக்கொண்டும் நடந்து கொள்ளவும் 2 ம் லக்கமிட்ட பழனிக்கவுண்டருக்கு

வண்டித்தடம் விட வேண்டியது”.

2.2. In the above said partition deed clearly mentioned that at the time of harvesting work (காடு அறுவடை செய்யும் காலத்தில்) only Subbannagounder will give permission to use pathway along with the western boundary of the Subbannagounder's land in S.F.No.321 to the Palanigounder for his harvesting work only in S.F.No.320/2. From the date of partition deed dated on 20.08.1970, the said Palanigounder or his family members not doing any agricultural activities in S.F.No.320/2 and not used any pathway in western side of the Subbannagounder's land in S.F.No.321 for their harvesting work. Further the Palanigounder, his family members and plaintiff used the cart track in S.F.No.319 for their land.

2.3. Further the plaintiff have suppressed that the Subbannagounder's legal heirs i.e., the 1st and 2nd defendants and their mother Ramathal and their sister Thulasimani entered into registered partition deed on 06.06.2019 and divided the extent of 2.08 $\frac{3}{4}$ acres in S.F.No.321, into the three portion with plan and created a new common area (Cart track) for them, which is extent of 0.19 Acres in S.F.No.321 (being eastern side). The 1st and 2nd defendants and Thulasimani each entitled common 1/3rd share in the above said 0.19 acres common area, it is clearly mentioned in the partition deed and partition deed's plan. This defendant's sister Thulasimani sold her 0.50 Acres in S.F.No.321 with common 1/3rd area in 0.19 acres in S.F.No.321 to the 1st defendant and the 1st defendant sold to the 3rd defendant under registered sale deed dated on 17.03.2025. In the said two sale deeds also clearly mentioned our 0.19 Acres common area.

2.4. Further the plaintiff have suppressed that the plaintiff purchased an extent of 1.51 Acres in S.F.No.320/2 under registered sale deed dated 25.06.2018. At the time of plaintiff purchased the land in S.F.No.320/2, our 0.19 Acres common area not existent and it created only on 06.06.2019. Further in the plaintiff's sale deed

dated 25.07.2018, his land's easterner boundary is clearly mentioned as 30 feet cart track and right of way also gave in the above said 30 feet cart track, which is running in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. Further the Palanigounder's family members and plaintiff used the cart track in S.F.No.319 for their land. The plaintiff or her vendors not have any right or title in eastern side of the defendants eastern side land in S.F.No.321/5B. The plaintiffs have not come to the court with clean hands. There are no merits in the suit claim of the plaintiffs.

2.5. This defendant's sister Thulasimani sold her 0.50 Acres in S.F.No.321 with common 1/3rd area in 0.19 acres in S.F.No.321 to the 1st defendant and the 1st defendant sold to the 3rd defendant under registered sale deed dated on 17.03.2025. In the said two sale deeds also clearly mentioned our 0.19 Acres common area. The petition and suit is ill-motivated and intended to harass the respondents and also to gain unlawfully, if possible. There are no merits in the petition. Hence, this Petition is to be dismissed.

3. The brief averments of Written statement filed by the 3rd Defendant adopted as counter as follows:

3.1. The petition is not maintainable either in Law or on the facts of the case. The petitioner is put to strict proof of all the allegations made in the affidavit except those which are admitted herein by these respondents. This petition and suit is a gross misuse of judicial process. The petitioner have suppressed very many material particulars and the real facts that one Marappagounder, Palanigounder and Subbanna Gounder into a registration partition deed dated on 20.08.1970. In the above said partition deed an extent of 2.08 $\frac{3}{4}$ Acres in S.F.No.321 of Mopiripalayam Village and other properties were allotted to the Subbanna Gounder. In the above

said partition deed dated on 20.08.1970 recitals as follows

“3 ம் லக்கமிட்ட சுப்பணகவுண்டர் தனக்கு பாத்தியப்பட்ட க.ச.321 நெகாலையில் தன்பங்கு மேல்கோட்டில், காடு அறுவடை செய்யும் காலங்களிலும், குப்பைமண் எடுக்கும் காலங்களிலும் வண்டிகால் நடை வகையறா ஓட்டிக்கொண்டும் நடந்து கொள்ளவும் 2 ம் லக்கமிட்ட பழனிக்கவுண்டருக்கு வண்டித்தடம் விட வேண்டியது”.

3.2. In the above said partition deed clearly mentioned that at the time of harvesting work (காடு அறுவடை செய்யும் காலத்தில்) only Subbannagounder will give permission to use pathway along with the western boundary of the Subbannagounder's land in S.F.No.321 to the Palanigounder for his harvesting work only in S.F.No.320/2. From the date of partition deed dated on 20.08.1970, the said Palanigounder or his family members not doing any agricultural activities in S.F.No.320/2 and not used any pathway in western side of the Subbannagounder's land in S.F.No.321 for their harvesting work. Further the Palanigounder, his family members and plaintiff used the cart track in S.F.No.319 for their land.

3.3. The plaintiff has suppressed that the Subbannagounder's legal heirs i.e., the 1st and 2nd defendants and their mother Ramathal and their sister Thulasimani entered into registered partition deed on 06.06.2019 and divided the extent of 2.08 $\frac{3}{4}$ acres in S.F.No.321, into the three portion with plan and created a new common area (Cart track) for them, which is extent of 0.19 Acres in S.F.No.321 (being eastern side). The 1st and 2nd defendants and Thulasimani each entitled common 1/3rd share in the above said 0.19 acres common area, it is clearly mentioned in the partition deed and partition deed's plan. This defendant's sister Thulasimani sold her 0.50 Acres in S.F.No.321 with common 1/3rd area in 0.19 acres in S.F.No.321 to the 1st defendant and the 1st defendant sold to the 3rd defendant under registered sale deed dated on 17.03.2025. In the said two sale deeds also clearly mentioned our 0.19 Acres

common area.

3.4. The plaintiff has suppressed that the plaintiff purchased an extent of 1.51 Acres in S.F.No.320/2 under registered sale deed dated 25.06.2018. At the time of plaintiff purchased the land in S.F.No.320/2, our 0.19 Acres common area not existent and it created only on 06.06.2019. Further in the plaintiff's sale deed dated 25.07.2018, his land's easterner boundary is clearly mentioned as 30 feet cart track and right of way also gave in the above said 30 feet cart track, which is running in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. Further the Palanigounder's family members and plaintiff used the cart track in S.F.No.319 for their land. The plaintiff or her vendors not have any right or title in eastern side of the defendants eastern side land in S.F.No.321/5B. The plaintiffs have not come to the court with clean hands. There are no merits in the suit claim of the plaintiffs.

3.5. After that the 3rd defendant purchased the above said 0.56 Acres in S.F.No.321 and S.F.No.321/5B through registered sale deed Doc.No.3968/2025 dated 17.03.2025. After purchasing the property the said 3rd defendant is full possession and enjoyment of the property. The 3rd defendant is running a company which is located in Western side of the suit mentioned property for past 10 years. The plaintiff purchased the property in the year of 25.07.2018. At the time of purchasing the property itself the plaintiff does not have any pathway for her property. The 3rd defendant purchased the property for his business purpose and made borewell in the property but all of a sudden, the plaintiff filed the above suit by false allegation. The plaintiff with an ill intention to grab property from the 3rd defendant has filed the above suit.

3.6. The Plaintiff purchased the extent of 1.51 Acres in S.F.No.320/2 through registered sale deed Doc.No.4764/2018 dated 25.06.2018. While the plaintiff purchased the land in S.F.No.320/2, 0.19 Acres of common area was not in existence, because it was allotted in the year 06.06.2019. Further in the plaintiff's sale deed dated 25.07.2018, the plaintiff land's is clearly mentioned as 30 feet cart track in eastern boundary and right of way also given in the above said 30 feet cart track, which is running in S.F.No.319 of Mopiripalayam Village. The plaintiff has purchased the land in S.F.No.320/2 only with the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. The Schedule property which belongs to plaintiff was purchased through Document No.4764/2018, the schedule mentioned property in the document itself wrong and it will not bind the 3rd defendant. Further the said Palanigounder's family members and the plaintiff used the cart track in S.F.No.319 only for their land. The plaintiff does not have any right or title in eastern side of the 3rd defendant land in S.F.No.321. The plaintiff chosen to file this false suit in order to illegally grab these defendants eastern side land S.F.No.321/5B.

3.7. This defendant's sister Thulasimani sold her 0.50 Acres in S.F.No.321 with common 1/3rd area in 0.19 acres in S.F.No.321 to the 1st defendant and the 1st defendant sold to the 3rd defendant under registered sale deed dated on 17.03.2025. In the said two sale deeds also clearly mentioned our 0.19 Acres common area. The petition and suit is ill-motivated and intended to harass the respondent and also to gain unlawfully, if possible. There are no merits in the petition. Hence, this Petition is to be dismissed.

4. No Witnesses were examined on either side, and no documents were marked as exhibits on Petitioner side. On Respondents side Ex.R.1 to R.10 have been marked.

5. Points for Consideration:-

Whether the petition under order 39 rule 1 of CPC to pass 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 Declaration and Permanent injunction. Now the suit is pending for framing of issues.

5.2. It is admitted by both parties that Palanisamy alias Palani Gounder, Subbanna Gounder, and Marappa Gounder partitioned their ancestral properties on 28.07.1970, and that the first schedule property in this case was allotted to Palanisamy alias Palani Gounder. It is also admitted that the petitioner purchased the first schedule property through a sale deed dated 25.07.2018.

5.3. The petitioner has stated that the Second Schedule property serves as the only access pathway to reach the First Schedule property and that there is no other alternative pathway available. On 18.03.2025 the 1st respondent, Son of Late.Subbana Gounder, brother of predecessor in title of the plaintiff, has with a view to prevent petitioner ingress and egress, brought out a sale deed dated 18.03.2025 and registered as Doc.No.3968/2025 in the office of Sub Registrar, Annur in favour of 3rd Respondent in respect of portion of the property in S.F.No.321/5B. The 1st respondent has determined to prevent the item 2 of the petition mentioned property to reach item 1 of the petition mentioned property. Accordingly, in the said sale deed, the property sold is shown as though the said property were situated at south side of north – south pathway. By showing the said boundary petitioner right of access in S.F.No.321/5B is denied. The boundaries invented in the sale deed dated 18.03.2025 and registered as Doc.No.3968/2025 in the office of the Sub-Registrar, Annur do not

blind and take away the easementary rights of petitioner over the item 1 of the petition mentioned properties.

5.4. The Respondents objected that, this petition and suit is a gross misuse of judicial process. The petitioner have suppressed very many material particulars and the real facts that one Marappagounder, Palanigounder and Subbanna Gounder into a registration partition deed dated on 20.08.1970. In the above said partition deed an extent of 2.08 $\frac{3}{4}$ Acres in S.F.No.321 of Mopiripalayam Village and other properties were allotted to the Subbanna Gounder. In the above said partition deed dated on 20.08.1970 recitals as follows

“3 ம் லக்கமிட்ட சுப்பணகவுண்டர் தனக்கு பாத்தியப்பட்ட க.ச.321 நெகாலையில் தன்பங்கு மேல்கோட்டில், காடு அறுவடை செய்யும் காலங்களிலும், குப்பைமண் எடுக்கும் காலங்களிலும் வண்டிகால் நடை வகையறா ஓட்டிக்கொண்டும் நடந்து கொள்ளவும் 2 ம் லக்கமிட்ட பழனிக்கவுண்டருக்கு வண்டித்தடம் விட வேண்டியது”.

5.5. The Subbannagounder's legal heirs i.e., the 1st and 2nd defendants and their mother Ramathal and their sister Thulasimani entered into registered partition deed on 06.06.2019 and divided the extent of 2.08 $\frac{3}{4}$ acres in S.F.No.321, into the three portion with plan and created a new common area (Cart track) for them, which is extent of 0.19 Acres in S.F.No.321 (being eastern side). The 1st and 2nd defendants and Thulasimani each entitled common 1/3rd share in the above said 0.19 acres common area, it is clearly mentioned in the partition deed and partition deed's plan. This defendant's sister Thulasimani sold her 0.50 Acres in S.F.No.321 with common 1/3rd area in 0.19 acres in S.F.No.321 to the 1st defendant and the 1st defendant sold to the 3rd defendant under registered sale deed dated on 17.03.2025. In the said two sale deeds also clearly mentioned our 0.19 Acres common area.

5.6. The plaintiff purchased an extent of 1.51 Acres in S.F.No.320/2 under registered sale deed dated 25.06.2018. At the time of plaintiff purchased the land in S.F.No.320/2, our 0.19 Acres common area not existent and it created only on 06.06.2019. Further in the plaintiff's sale deed dated 25.07.2018, his land's easterner boundary is clearly mentioned as 30 feet cart track and right of way also gave in the above said 30 feet cart track, which is running in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. The plaintiff purchased the land in S.F.No.320/2 with only the above said 30 feet cart track in S.F.No.319 of Mopiripalayam Village. Further the Palanigounder's family members and plaintiff used the cart track in S.F.No.319 for their land. The plaintiff or her vendors not have any right or title in eastern side of the defendants eastern side land in S.F.No.321/5B. The plaintiffs have not come to the court with clean hands. There are no merits in the suit claim of the plaintiffs.

5.7. In the original suit, the Court Commissioner inspected the suit property and submitted a report along with a sketch. In that report, it has been specifically mentioned that there is no other access to reach the First Schedule property except through the pathway situated in the Second Schedule property. Since there is no other access to the First Schedule property except through the pathway in the Second Schedule property, and considering that the right of pathway has been granted in favour of Palani Gounder (from whom the petitioner purchased the property) as stated in the counter, a temporary injunction is hereby granted till the disposal of the suit.

In the result, this petition is allowed by granting temporary injunction restraining the respondents, their men or agents or anyone from disturbing the petitioner's easement rights over the item 2 of the petition mentioned properties for ingress and egress to the item 1 of the petition mentioned properties both by placing

the stones or fencing the barbaric wires in the item 2 of the petition mentioned properties and by showing the artificial boundaries invented in the sale deed dated 18.03.2025 till the disposal of the suit. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 19th day of December 2025.

Sd/M.Santhosham
District Munsif,
Sulur.

List of witnesses and documents on petitioner side:- - Nil

List of witnesses on Respondents side :- - Nil

List of Documents on Respondents side :-

Exhibit No.	Date	Document	Nature of Document
Ex.R.1	25.07.2018	Sale deed	Certified copy
Ex.R.2	20.08.1970	Partition deed	Certified copy
Ex.R.3	06.06.2019	Partition deed	Certified copy
Ex.R.4	17.03.2025	Sale deed	Certified copy
Ex.R.5	---	Rough Sketch	Office copy
Ex.R.6	20.08.1970	Partition deed	Certified copy
Ex.R.7	02.06.2025	FMB for S.F.No.319, 320, 321 of Moppiripalayam village	Online copy
Ex.R.8	---	CD and Photos Nos.6	Photo copy
Ex.R.9	---	Commissioner Report in IA.No.3/2025 in O.S.No.35/2025 on the file of District Munsif Court, Sulur	Original
Ex.R.10	---	Commissioner Plan in IA.No.3/2025 in	Original

		O.S.No.35/2025 on the file of District Munsif Court, Sulur	
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Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.2/2025 in
O.S.No.35/2025
Dated:19.12.2025
DMC, Sulur