

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 17th day Month of Karthigai

Wednesday the 3rd day of December 2025

I.A.No.2/2025

in

O.S.No.39/2025

Rajendran

... Petitioner/Plaintiff

/VS/

1. R. Jeyaraj

2. R. Sakthiganesan

3. R. Murugesan

4. R. Sivakumar

5. S. Chitra

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.M.Jeyanthinathan, Advocate for the Petitioner/plaintiff and Mr.M.S.Aboothahir, Advocate for the Respondents/Defendants 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 of CPC to an order of temporary injunction restraining the respondents, their men, agents etc, from in anyway trespassing into petition mention property by the way of disturb the peaceful possession and enjoyment of the Petitioner till the disposal of the suit and also an order of ad interim injunction till the disposal of the petition.

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

1.1. The petitioner have filed the main suit against the respondents for

the relief of permanent injunction and declaration. The suit mention property was originally allotted to the mother of Petitioner namely Maragathamani through a Patta No.1902 issued by the Palladam Special Tasildar in the year of 1990. From the date of issue the said Maragathamani is in the possession and enjoyment of the petition mentioned property. Later on 18.12.1998 the said Maragathamani executed a gift deed in favour of the Petitioner vide Doc No.5172/1998. From the date of gift deed the Petitioner is in the possession and enjoyment. The said Maragathamani was also died in the year of 2019.

1.2. The revenue records like the patta and chitta all are muted in the name of Petitioner. Thereafter the Petitioner constructed residential building on the petition mentioned property. The assessment of building tax, electricity and water connection all are obtained in the name of Petitioner. In other hand the southern side of petition mentioned property was purchased by one Ashirvatham vide Doc No.418/1978 dated 22.06.1978 for an extent of 1578 sqft with specific boundaries of northern side east to west 31 ft, southern side east to west 32 ft, eastern side south to north 39 ft and western side south to north 39 ft and another land of southern side east to west 26 ft, south to north 14 ft total for an extent of 1593 sqft of land along with a pathway of 260 Sq ft with specific boundaries. Total for an extent of 1853 sqft.

1.3. On 12.09.1985 the above said Asirvatham executed a sale deed in favour of respondents along with their mother namely Lakshmi vide doc no 1551 of 1985. In the respondents purchase sale deed the area of the schedule of property was entirely changed at the same time it was increased by 232 sq ft. In the schedule of property it was mentioned as northern side east to west 35 ft, southern side east to west 35 ft, eastern side south to north 41 ft and western side south to north 41 ft and another land of southern side east to west 30 ft, south to north 13 ft total for an extent of 1825 sqft of land along with a pathway of 260 Sq ft with specific boundaries. Total for an extent of 2085 sqft.

1.4. The doc.No.418 of 1978 mentioned area of property was entirely changed and also increased in doc no 1551 of 1985 which was the purchase documents of respondents along with their mother. Further, on 07.04.2003 the defendants were entered a partition deed along with their mother vide doc no 1518 of 2003 in that the southern side of petition mention property was allotted to 2nd and 3rd respondents. The allotment area of 2nd and 3rd respondents was mentioned as around 2085 sqft which they mentioned purposely on their purchase in doc no 1551 of 1985.

1.5. The 1st to 5th respondents are taking advantage of the mistake in extent they trying to encroach the northern side of their property which is the petition mention property. Recently in the year of 2023 when the respondents made an attempt to encroach the Petitioner's southern side property were the Petitioner made objection and call for the respondents for proper measurement with the help of taluk surveyor. Initially the respondents acted like corporate for measurements later they avoid the joint measurement of petition mention property along with their property with silly reasons. Recently, when the respondents started to put up some construction in their property with an attempt of encroachment of the schedule mention property. Immediately the petitioner launched a complainant with jurisdiction police on 06.12.2024 later a remainder also on 20.02.2025. The police call for the defendants for enquiry the defendants drag the enquiry proceeding hence the petition also still pending in the stage of enquiry.

1.6. On perusal of the respondents purchase and parent document it is cleared that the respondents don't have 2085 sq ft of land instead of 1853 sq ft. Hence the petitioner come forward with this present suit to declare null and void of Doc no 1551 of 1985 the sale deed and Doc no 1815 of 2003 the partition deed in which the area of respondents property was mentioned wrongly and also the respondents taking advantage of that mistake and trying to encroach the petitioner's property. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 3rd Respondent and adopted by the 1st, 2nd, 4th and 5th Respondents as follows:

2.1. The petition is false, frivolous, vexatious and unsustainable both in law and on the facts of the case. The petitioner is put to strict proof of all the averments made in the affidavit filed in support of the petition seeking Temporary Injunction and suit for Declaration by him, except those that are specifically admitted hereinafter by the 3rd respondent / 3rd defendant remaining the plaintiff/ petitioner has to prove according to law.

2.2. The registered document No.1551/1985 and registered document No.1518/2003 is a genuine one and its registered according to actual measurement of the 3rd respondent/3rd defendant property. The 3rd respondent/3rd defendant is undertake to file petition for appointment of Commissioner for measuring the suit property with grand permission of this Court, when and were required. In this Commissioner Report, the Commissioner has influenced by the petitioner/plaintiff at the time of the Inspection of the suit property. Hence, the Commissioner is report not properly filed by the Commissioner as per the Warrant issued by this Court.

2.3. It is true that 3rd respondent /3rd defendant are make an arrangement measurement of their property and Taluk Surveyor properly measure the property and fixing the boundary stone accordingly. As per measurement fixed by the Taluk Surveyor the 3rd respondent/3rd defendant is constructed their building. The time of the constructed of the building by the 3rd respondent/3rd defendant, the petitioner plaintiff only make some atrocity and also damage the boundary stone of the 3rd respondent/3rd defendant and also the petitioner/plaintiff is damage the constructed building, constructed by the 3rd respondent/3rd defendant for which the 3rd respondent / 3rd defendant is having photograph with CD and the 3rd respondent /3rd defendant is undertake to produce before this Court, (when and were required by this Court, and also the 3rd respondent /3rd defendant prefer to claiming the damage the property

amount from the petitioner/plaintiff accordingly. It is true that the petitioner /plaintiff have a false complaint against the 3rd respondent/3rd defendant before the Sulur, Police and the Police enquired the both of parties and they found mistake and atrocity made by the petitioner/plaintiff. So, the police officials visited the property and warning the petitioner/plaintiff to not interfere the construction of the 3rd respondent/3rd defendant. Due to this legal intervention of the police officials, the petitioner/plaintiff is kept quit. So, the disturbance and intervenes not by the 3rd respondent /3rd defendant.

2.4. The 3rd respondent/3rd defendant is constructed their building as per the document No1551/1985 and 1815/2003. The petitioner/plaintiff purposely and with developing of crooked mind the petitioner/plaintiff purposely given a unnecessary disturbance and also try to encroach some additional area to grab from the 3rd respondent /3rd defendant. Already the boundary walls east to west Northern side of the 3rd respondent/3rd defendant property and Southern side of the petitioner/plaintiff property is constructed as a compound wall with sharing the amounts between the both parties. Even though, the petitioner plaintiff is encroached nearly more than 1½ feet from the 3rd respondent/3rd defendant's property. The petitioner/plaintiff have not made out a prima facie case for which he has no right at all. The balance of convenience is not in his favour. Hence, the petition ought 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 of CPC to 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 of the sale deed dated 12.09.1985 and partition deed dated 07.04.2003 are null and void and not binding upon the plaintiff. Now the suit is pending for framing of issues.

5.2. The petitioner/plaintiff alleged that on 18.12.1998 the petitioner's mother Maragathamani executed a gift deed in favour of Petitioner vide Doc No.5172/1998 and the Petitioner is in the possession and enjoyment. The revenue records like the patta and chitta all are muted in the name of Petitioner and Petitioner constructed residential building on the petition mentioned property. The southern side of petition mentioned property was purchased by one Ashirvatham to an extent of 1578 sqft with specific boundaries total for an extent of 1593 sqft of land along with a pathway of 260 Sq ft with specific boundaries. Total for an extent of 1853 sqft.

5.3. On 12.09.1985 the said Asirvatham executed a sale deed in favour of respondents along with their mother namely Lakshmi vide doc no 1551 of 1985. In the sale deed the Parent document was mentioned as document no 4 and 8 of 1978 which was the sale deed of Asirvartham. In the respondents purchase sale deed the area of the schedule of property was entirely changed at the same time it was increased by 232 sq ft and total for an extent of 1825 sqft of land along with a pathway of 260 Sq ft with specific boundaries. Total for an extent of 2085 sqft. The 1st to 5th respondents are taking advantage of the mistake in extent they trying to encroach the northern side of their property which is the petition mention property.

5.4. The respondents/defendants objected the same and that, the registered document No.551/1985 and registered document No.1518/2003 are genuine one and its registered according to actual measurement of the 3rd

respondent/3rd defendant property. The 3rd respondent/3rd defendant is undertake to file petition for appointment of Commissioner for measuring the suit property with grand permission of this Court. In this Commissioner Report, the Commissioner has influenced by the petitioner/plaintiff at the time of the Inspection of the suit property. Hence, the Commissioner is report not properly filed by the Commissioner as per the Warrant issued by this Court. As per measurement fixed by the Taluk Surveyor the 3rd respondent/3rd defendant is constructed their building at that time the petitioner plaintiff only make some atrocity and also damage the boundary stone and the constructed building of the 3rd respondent/3rd defendant. The 3rd respondent/3rd defendant is constructed their building as per the document No1551/1985 and 1815/2003.

5.5. On perusal of records no Witnesses were examined on either side, and no documents were marked as exhibits. There is a title dispute between the plaintiff and 3rd defendant in respect of the suit property by way of encroachment. The said facts have to be decide after perusing both side oral and documentary evidences in full trial on merits. Hence, when the title dispute arose without deciding the plaintiffs' title and right with oral and documentary evidences this court can't grant an order of temporary injunction can't be granted. Hence, this court can't allow this petition in this stage.

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 3rd day of December 2025.

Sd/M.Santhosham
District Munsif,
Sulur.

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

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

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.2/2025 in
O.S.No.39/2025
Dated:03.12.2025
DMC, Sulur