

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 16th day of Karthigai

Tuesday the 2nd day of December 2025

I.A.No.3/2024

in

O.S.No.146/2024

M. Soundararajan

... Petitioner/Plaintiff

/VS/

Chinnadurai

...Respondent/Defendant

This petition is coming on this day for final hearing before me in the presence of Mr.M.Jayanthinathan, Advocate for the Petitioner and Mr.Elan Kumaran, Advocate for the Respondent and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioner under order 39 rule 1 and 2 and section 151 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.

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

1.1. The petition mentioned property is a common pathway which travels from north to south and east to west at about 750 sqft in S.F.No.478 in Kadampadi Village, Sulur Taluk. The Petitioner having property towards the eastern side of the petition mentioned property for a width of 35 feet north to south. The said property was allotted to the petitioner from Will vid Doc.No.79/2001 dated

25.05.2001 which was executed by the father of Petitioner. From the date of Commencement of Will the Petitioner is in the possession and enjoyment. Moreover the petitioner property is a tax assessment one vide Assessment No.4664 and 4665 and an EB connections also in th petitioners property through Nos:030649042014 and 030640042028. Some of the tenants were in the occupation of petitioner's property.

1.2. The respondent is residing in the just opposite eastern side of petitioner. Between the respondent and petitioner a common pathway of more than 40 feet length and 12 feet breadth was travel. After the petitioner's property the pathway turned into eastern side and southern side of the respondent's residence towards east. The respondent is a local office bearer of DMK which is the ruling party. Using his political powers the respondent normally behaved in a uncultured manner in the locality. It is confirmed by the petitioner that the living area of the respondent is not belongs to him which actually belongs to One Ganapathy Chettiayar. Without any proper title document the respondent simply occupied the above said Ganapathy Chettiayar property by the way of using his political power.

1.3. The Respondent living in the occupied area from past 6 months. Just because of don't have title deed the respondent not even obtained any electricity connection Acc Cement sheet Building and using power from his parents home which is far from more than 100 meters. Moreover there is no tax assessment to the respondent's residing land. Since he is an influenced person in the ruling party none of the government departments like Local Body or Electricity Board will take action against him. In the initial days, the respondent occupied only the Ganapathy Chettiayar land. Later slowly he started to encroach the pathway between the petitioner and him up to more than 6 feet out of 12 feet in the western side of his residence. Likewise in the southern side of respondent's residence encroached more than 4 feet out of 8 feet of the petition mentioned property. In the western side the respondent encroached more than 20 feet length in the common pathway and in the

southern side more than 15 feet towards east to west. Out of the petition mentioned property total 750 sqfts the respondent encroached more than 180 sqfts of common pathway.

1.4. Just because of the encroachment the petitioner cannot make use of his eastern pathway towards north to south and the pathway towards east to west. The petitioner also taken up hetic steps to remove the encroachment of the respondent over the common pathway but for all being a politician the respondent defence the entire steps taken up by the petitioner. On 16.08.2024 when the petitioner approached the respondent to stop his encroachment attempt and further not to enchroach the petition mentioned property were the respondent replied in a rude manner that he is a powerful person by political and muscle power therefore he won't stop and even the petitioner also cannot do anything against him in any of legal forum like police or judicial. Hence, the petition is to be allowed.

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

2.1. The petition is false, fraudulent, and neither legally nor justifiably sustainable. The petitioner is bound to prove, with proper documents, all claims except those that have been admitted by the respondent. The suit is not maintainable either in law or on facts of the case. Suit property is situated at Survey number 478 in Kadambadi village. No pathway has been granted by the government in Survey Number 478. In the Will document, the property details mention only Survey Number 254/1. Therefore, the petitioner's property is not situated in Survey Number 478. Other than that, no evidence has been submitted by the petitioner's side to prove the existence of a public pathway.

2.2. The footpath of the claimed property is 40 feet by 12 feet, the petitioner has not properly explained it. The petitioner has not filed a government map or a map measured by a surveyor for the same. Since the year 2008, the

respondent has been residing in a thatched house without any supporting documents. However, he has been regularly paying property tax, water tax, and electricity charges for the same. The respondent has now placed a cement sheet roof building on the said property. The petitioner has filed this case based on false information without any supporting evidence. Hence, the petition deserves 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 and section 151 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 Mandatory Injunction and Permanent Injunction and now the original suit is currently pending for Written statement.

5.2. The petitioner stated that, the petition mentioned property is a common pathway which travels from north to south and east to west at about 750 sqft in S.F.No.478 in Kadampadi Village, Sular Taluk. The Petitioner having property towards the eastern side of the petition mentioned property for a width of 35 feet north to south. Out of the petition mentioned property total 750 sqfts the respondent encroached more than 180 sqfts of common pathway.

5.3. The Respondent living in the occupied area from past 6 months. Just because of don't have title deed the respondent not even obtained any electricity

connection Acc Cement sheet Building and using power from his parents home which is far from more than 100 meters. Moreover there is no tax assessment to the respondent's residing land. Since he is an influenced person in the ruling party none of the government departments like Local Body or Electricity Board will take action against him. In the initial days, the respondent occupied only the Ganapathy Chettiyar land. Later slowly he started to encroach the pathway between the petitioner and him up to more than 6 feet out of 12 feet in the western side of his residence. Likewise in the southern side of respondent's residence encroached more than 4 feet out of 8 feet of the petition mentioned property. In the western side the respondent encroached more than 20 feet length in the common pathway and in the southern side more than 15 feet towards east to west. Out of the petition mentioned property total 750 sqfts the respondent encroached more than 180 sqfts of common pathway.

5.4. The respondent objected that, Since the year 2008, the respondent has been residing in a thatched house without any supporting documents. However, he has been regularly paying property tax, water tax, and electricity charges for the same. The respondent has now placed a cement sheet roof building on the said property. The petitioner has filed this case based on false information without any supporting evidence

5.5. Both parties were heard. The original suit has been filed seeking for Mandatory Injunction and Permanent Injunction reliefs. In this situation, the petitioner/plaintiff stated that there is encroachment made by the respondent /defendant. The respondent stated that if the respondent has occupied the land and the footpath, the petitioner should have filed a government land map for the same, otherwise the petitioner has prepared and filed a map on his own. The petitioner has filed this case by giving false information without any evidence and the onus is on the petitioner to prove them with appropriate evidence. It is noted that the petitioner has not submitted any documents in support of his claim. Similarly, the respondent also

has not submitted any documents.

5.6. As stated in the petition, whether the respondent has encroached upon the property can be ascertained only during the original suit proceedings, when a Court Commissioner is appointed and the property is measured with the help of a surveyor, and a report and sketch are submitted. Since the relief sought in this petition is the same as that in the original suit, the relief claimed in this petition cannot be decided at this stage. 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 2nd day of December 2025.

Sd/M.Santhosham
District Munsif,
Sulur.

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

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

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
 I.A.No.3/2024 in
 O.S.No.146/2024
 Dated:02.12.2025
 DMC, Sulur