

IN THE COURT OF THE DISTRICT MUNSIF, SULUR.Present : **Tmt.N.Renuga**, B.A., B.L.,

District Munsif, Sulur

Friday, the 22nd day of March 2024**I.A.No.2/2023****in****O.S.No.146/2023**

R.P.Sakthi

...Petitioner/ Plaintiff

/ Vs /

1. Saraswathy
2. Raj
3. Subramanian
4. Geetha
5. Easwari
6. Rathinam
7. Vasu
8. Karthy

...Respondents / Defendants

This petition is coming on 22.01.2024 for final hearing before me in the presence of Thiru.S.Manoharan, Advocate for the Petitioner and Thiru.A.Rajesh, Advocate for the Respondents and upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDER

Petition filed by the petitioners under Order 39 rule 1 and 2 and section 94, 151 of CPC to a temporary injunction to restrain the respondents, their men, servants, agents and others from in any way interfering with the petitioners' peaceful possession and enjoyment of the petition mentioned property more fully described, till the disposal of the suit, as the matter is urgent grant an ad interim injunction to the said effect till the disposal of this petition.

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

1.1. The 1st respondent is the wife of the 2nd respondent. The 3rd, 5th to 7th respondents are the son and daughters of the 1st and 2nd respondents. The 4th respondent is the wife of the 3rd respondent. The 8th respondent is the son of the 5th respondent.

1.2. The agricultural landed property with Coconut trees was purchased by petitioner under a registered sale deed dated 24.05.2023 from its original owners. Subsequent to petitioner's purchase he have subdivided the property in J.Krishnapuram village of Suler Taluk. In the survey field in S.F.No.302/1C to an extent of punjai acres 1.22 and petitioner's property was assigned the S.F.No.302/1C2 and a new patta was also issued to petitioner by the competent authority, namely the Tahsildar of Suler under his proceedings in TR.2023/12/10/000075SD dated 29.07.2023 itself subsequent to the resurvey and sub division report of the Taluk Survey under his report dated 27.07.2023.

1.3. Now that on 28.08.2023 the petitioner had requested and caused petitioner's father-in-law Marappan, son of Subramaniya gounder to purchase barbed wire used for stone pillars for fencing petitioner lands in J.Krishnapuram village. The petitioner's father-in-law was unloading the stone fences and steel barbed wires in the said suit lands, the 1st to 6th respondents had unlawfully trespassed into petitioner property and obstructed his father-in-law from erecting the stone pillars in the said property by adhering to unsocial epithets. The said respondents had infact man handled petitioner's father-in-law with their hands and knees thereby causing simple injuries to him. Also the respondents present had broke the stone pillar erected for the purpose of forming the barbed wire fencing in the suit property on the boundaries in petitioner property.

1.4. Subsequently the petitioner had arrived at the scene and the son of the said 1st respondent namely 3rd respondent and his wife the 4th respondent and 8th respondent the son of the said 1st respondent another daughter Easwari had arrived at the suit property and started threatening petitioner, his father-law and all those accompanied petitioner, Elangovan, Kanagarathinam, Shivakumar, Kanakkampalayam, Tiruppur. On seeing the unruly behavior, acts and activities of the respondents with dangerous weapons in their hands and threatened petitioner and his associates with dire consequences including the doing away with petitioner life

and his father-in-law.

1.5. The petitioner apprehend that the respondents may at any time attempt to evict petitioner and his family members from the suit property. During the past one week some rowdy elements are roaming around the suit properties. Therefore the petitioner have come forward with this suit for permanent injunction and this application for temporary injunction to restrain the respondents, their men and servants from interfering with his peaceful possession and enjoyment of the suit property. Hence, the petition.

2. The brief avernment of written statement filed by the 4th defendant adopted by the 1st to 3rd and 5th to 8th defendants are adopted as counter statement by respondents/defendants as follows:

2.1. The application is false, frivolous, vexatious and unsustainable, both in law and on facts of the case. The suit property originally belongs to 1st defendant's mother Kandammal through the sale deed in doc.No.2347/1937. The 1st defendant's mother is in need of money of Rs.2,00,000/- and she obtained loan from one Chinnayan. Further the 1st defendant's mother executed sale agreement in favour of the Chinnayan in doc.No.2385/2003 and the Kandammal died on 23.07.2005 leaving behind the 1st defendant. After her death, the 1st defendant enjoyed the suit property. The 1st defendant discharged the said loan and executed the cancellation of sale agreement deed on 07.11.2007 and it was registered as doc.No.12651/2007.

2.2. Further the 1st defendant got loan from Velusamy and Thangavel had executed a general power deed in favour of them in doc.No.12653/2007 and till 2009 they paid the interest for the said loan, subsequently the 1st defendant and the 5th and 6th defendants had executed a another sale agreement in doc.No.397/2009 in favour of Thangavel and Velusamy.

2.3. Further to discharge the loan obtained from Thangavel and Velusamy, the 1st defendant approached one Manickamoorthy and Kaliappan and as per their advise they discharge the debt of Thangavel and Velusamy on the condition and the 1st

defendant has to execute sale deed in respect of the suit properties in favour of Manickamoorthy and Kaliaapan as agreed the 1st defendant executed the cancellation of sale agreement in doc.No.210/2011 and executed sale deed in doc.No.211/2011. Further the 1st defendant continued be in possession of the suit properties and has paid interest for the loan obtained from the said Manickamoorthy and Kaliappan till June 20.20.2023. The said Manickamoorthy and Kaliappan has denied the execution of cancellation of sale deed by stating one or other blamable execucess and the 1st defendant taken encumbrance certificate for the suit property on 14.08.2023 and had learnt that the said Manickamoorthy and Kaliappan, on the basis of sham and nominal sale deed they have executed a sale deed in favour of one Kandasamy on 09.04.2012 in doc.No.7461/2012. Again the said Kandasamy has sold the suit property on 18.01.2016 in doc.No.443/2016 to one P.Kandasamy. The said P.Kandasamy again sold the property to one Vankalathal and Kandasamy. Further the said persons has sold the suit property to one Vijayakumar and Chandrasekaran in doc.No.21669/2022. Further the said Vijayakumar and Chandrasekaran executed sale deed in favour of plaintiffs on 24.05.2023 in doc.No.9422/2023. By knowing these alleged sale deeds, the 1st defendant filed a suit for declaration before the Hon'ble Principal Subordinate Court, Coimbatore in OS.No.1189/2023 and this plaintiffs appeared through their counsels. Hence, the 1st defendant alone in possession and enjoyment of the suit property. They had appear before Hon'ble Principal Subordinate Court, Coimbatore, in urgent the plaintiff filed this case before this court. The cause of action alleged by the plaintiff is not proved. Hence, this petition is to be dismissed.

3. Point for Consideration:-

Whether the petition under Order 39 rule 1 and 2 and sections 94 and 151 of CPC is to be allowed?

4. Points:-

4.1. Heard both side. Perused records. The plaintiff's case is the plaintiff purchased the suit property on 24.05.2023 under Ex.P.1 from one Chandrasekaran

and Vijayakumar and while, they are trying to put fence in the suit property the defendants are tried to disturb the plaintiff's possession and enjoyment. The petitioner/plaintiff filed complaint before Police Station on 28.08.2023 and CSR marked as Ex.P.6 and copy of complaints marked as Ex.P7 and Ex.P.8. Then, the plaintiff filed suit for permanent injunction and this petition for ad interim and temporary injunctions. The plaintiff's vendor sale deed is marked as Ex.P.2, the patta changing order copy is marked as Ex.P.3, the patta and chitta are marked as Ex.P.4 and Ex.P.5.

4.2. The defendants' case is the 1st defendant executed a sham and nominal sale deed document in favour of one Manickamoorthy and one Kaliappan on 05.01.2011 in Ex.R.9 and they fraudulently executed subsequent sale deeds under Ex.R.10 to Ex.R.14 and the plaintiff is the last purchaser of the suit property under Ex.R.14. The defendants have challenged the said documents before Hon'ble Principal Sub Judge, Coimbatore in OS.No.1189/2023 and it is still pending. Here the defendant admitted the execution of sale deed in favour of Manickamoorthy and Kaliappan in the year 2011 under Ex.R.9. But alleged the said sale deed has been executed only as a security for the loan obtained from Manickamoorthy and Kaliappan is the matters are to be proved by the defendant through substantial oral and documentary evidences. The defendants are filed the 1st suit before the Hon'ble Principal Sub Judge, Coimbatore in August 2023. After that the plaintiffs are filed this present suit in December 2023 before this court. As per the complaint given by the petitioner/plaintiff the alleged incident have took place on 28.08.2023 and the time the earlier suit has been filed by defendants side. Hence, the present suit have been filed after the knowledge of the suit filed by the defendant in OS.No.1189/2023 before the Hon'ble Principal Sub Judge, Coimbatore.

4.3. Hence, the plaintiffs' title is questioned in OS.No.1189/2023 before Hon'ble Principal Subordinate Judge, Coimbatore the property being the vacant land, this main suit is for bare injunction it can't be decided without deciding title. The interim relief in this petition is the main relief hence, without examining both side

oral and documentary evidences and without proof of cause of action this court can't order for ad interim temporary injunction.

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

Dictated to the Steno-typist and directly typed by her in computer, and corrected and pronounced by me in open court this the 22nd March 2024.

Sd/N.Renuga

District Munsif,
Sulur.

List of witnesses on Petitioner side:-

Nil

List of documents on Petitioner side:-

Ex.P.1	24.05.2023	Sale deed	Certified copy
Ex.P.2	02.11.2022	Sale deed	Certified copy
Ex.P.3	29.07.2023	Patta changing order	Online copy
Ex.P.4	17.08.2023	10(1) chitta for patta No.2081 S.F.No.302/1C2 J.Krishnapuram village	Online copy
Ex.P.5	17.08.2023	A-Register for S.F.No.302/1C2 J.Krishnapuram village	Online copy
Ex.P.6	28.08.2023	CSR No.366/2023 Sulthanpet Police Station	Original
Ex.P.7	---	Complaint give by the petitioner to the Superintendent of Police, Coimbatore	Office copy
Ex.P.8	---	Complaint given by the petitioner to the DIG of Police, Coimbatore	Office copy
Ex.P.9	---	Photos	Original
Ex.P.10	---	CD	Original
Ex.P.11	16.10.2023	Letter by District Collector, Coimbatore to Superintendent of Police, Coimbatore	True copy
Ex.P.12	10.11.2023	ROC.No.103299/2023/TAPAL of Hon'ble High Court, Madras	Original
Ex.P.13	---	Acknowledgment card	Original
Ex.P.14	---	Acknowledgment card	Original
Ex.P.15	---	Acknowledgment card	Original

Ex.P.16	---	Acknowledgment card	Original
Ex.P.17	---	Acknowledgment card	Original
Ex.P.18	---	Acknowledgment card	Original
Ex.P.19	---	Acknowledgment card	Original
Ex.P.20	---	Acknowledgment card	Original
Ex.P.21	---	Acknowledgment card	Original
Ex.P.22	22.09.2023	Encumbrance certificate	Online copy

List of witnesses on Respondents side:-

Nil

List of documents on Respondents side:-

Ex.R.1	26.05.2023	Sale agreement deed	Certified copy
Ex.R.2	07.11.2007	Cancellation of sale agreement deed	Certified copy
Ex.R.3	08.08.2005	Death certificate of Kandhammal	Xerox copy
Ex.R.4	23.09.2005	Legal heirship certificate of Kandhammal	Xerox copy
Ex.R.5	09.11.2007	Sale agreement deed	Certified copy
Ex.R.6	20.01.2009	Cancellation of sale agreement deed	Certified copy
Ex.R.7	20.01.2009	Sale agreement deed	Certified copy
Ex.R.8	05.01.2011	Cancellation of sale agreement deed	Certified copy
Ex.R.9	05.01.2011	Sale deed	Certified copy
Ex.R.10	09.04.2012	Sale deed	Certified copy
Ex.R.11	18.01.2016	Sale deed	Certified copy
Ex.R.12	18.01.2016	Sale deed	Certified copy
Ex.R.13	02.11.2022	Sale deed	Xerox copy
Ex.R.14	24.05.2023	Sale deed	Certified copy
Ex.R.15	---	Plaint in OS.No.1189/2023 on the file of Sub Court, Coimbatore	Office copy
Ex.R.16	---	Case details of OS.No.1189/2023 on the file of Sub Court, Coimbatore	E-court copy
Ex.R.17	20.12.2023	Daily status of OS.No.1189/2023 on the file of Sub Court, Coimbatore	E-court copy

Sd/N.Renuga

District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.2/2023 in
O.S.No.146/2023
Dated :22.03.2024
DMC, Sulur.