

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM**

**Present: Mr. T.GANESH B.A., B.L.,
Subordinate Judge,
Madurantakam**

Tuesday, the 07th day of April, 2026

I.A. No. 2/2026

in

O.S No. 14/2026

(CNR.No.TNCG13-000055-2026)

D. Anburaja

...Petitioner/Plaintiff

..Vs..

1. Karunagaran

2. Ponnammal

3. Marimuthu

4. Selvam

... Respondents/Defendants

This petition coming up for final hearing on 24.03.2026 in the presence of Mr.S.Subramanian, counsel for the petitioner/plaintiff and Mr.S.Senthil Kumaran, counsel for Respondents 1 and 2, M/s.B.Rajesh and D.Saravanan, counsels for Respondents 3 and 4 and after hearing the arguments on both sides, upon perusing the case records and having stood over for the consideration of this court till date, this court delivered the following.

ORDER

This petition is filed by the Petitioner/Plaintiff under Order XXXIX Rule 1 and 2 of Civil Procedure Code for granting of temporary injunction restraining the

respondents/defendants, their men, agents, from any way putting up any terraced house or any permanent construction the suit property till the disposal of the suit.

2. Averments of the Petitioner:

Suit properties are ancestral properties, originally owned by Gengan. Gengan died intestate, leaving behind his sons Veerasamy, Appasamy, and Manickam as his legal heirs. The each entitled to 1/3rd share in the suit properties. Veerasamy died leaving behind Sundaram and Daniel as his legal heirs. Appasamy died leaving behind Mangammal @ Ellammal, as his legal heirs, who is entitled to 1/3rd share. She sold her 1/3rd share to plaintiff through a decree passed in a specific performance suit in O.S.No.16/2017. The legal heirs of Manickam are entitled only to 1/3rd share and they cannot claim half share. Their claim is illegal and unsustainable in law. The suit properties are vacant house sites and form part of Gramanatham land. The defendants are attempting to put up construction in the suit properties. There was no patta issued in respect of the suit properties prior to the year 1993. In Gramanatham patta was granted recognising all the three shares. The plaintiff is taking steps before the revenue authorities to effect transfer of patta in his name.

Defendants made an attempt on 02.01.2026 to put up construction in the suit properties which was successfully averted by the plaintiff. Defendants are making repeated attempts by using their men and muscle power. Hence this suit is filed for declaration and permanent injunction, restraining the defendants, their men, and agents from in any manner putting of terraced house. The plaintiff's purchased portion lies in the middle portion of the suit properties. A rough sketch is filed along with the plaint to show the portion where the defendants are attempting to put up construction.

Respondents/defendants are powerful in men and money, and respondents/defendants are attempted to trespass into the suit property on 02.01.2026 and attempted to dispossess me from the suit property and the same was averted with great difficulties. The respondents/defendants may renew their attempt.

Hence the petitioner files this petition for temporary injunction restraining the respondents/defendants, their men, agents, from any way putting up any terraced house or any permanent construction the schedule property till the disposal of the suit.

3. Counter of Respondents 1 and 2/Defendants 1 and 2 in brief:

The respondents denies the allegations set out in the affidavit. Item nos 1 and 2 of the suit properties are classified as Gramanatham, which originally owned by 1) Kannaiyaan, 2) Naadiyaan, 3) Marimuthu (3rddefendant), 4) Mangai, 5) Sundharam and 6) Daniel and that they are in joint possession and enjoyment of the same. Government also issued Gramanatham Patta during the month of November, 1993 in favour of them. In 1995 the said above Mangai had relinquished her 1/6th share in the item nos 1 and 2 of the suit properties in favour of Kannaiyaan, Naadiyaan, Marimuthu, Sundharam and Daniel by receiving a sum of Rs.6,000/- from them for her son's marriage expenses. Hence, Kannaiyaan, Naadiyaan and Marimuthu were jointly entitled to a right of 3 ½/6th share over the Item Nos.1 and 2 of the suit properties and likewise the said above Daniel and Sundharam were jointly entitled to a right of 2 ½ /6th share over the Item Nos.1 and 2 of the suit properties. In 1996 the said above Kannaiyaan, Naadiyaan, Marimuthu, Sundharam and Daniel had entered into an oral partition in which an extent of Ac. 0.09.25 cents (3 ½/6th share) had been allotted to the Kannaiyaan, Naadiyaan and Marimuthu on the Eastern side of the property to an extent of Ac. 0.06.75 cents (2 ½/6th share) which allotted to the Sundharam and Daniel.

After the oral partition effected the said Kannaiyaan, Naadiyaan and Marimuthu had put up separate thatched huts to each according to their convenience over the suit property to an extent of Ac. 0.07.50 cents out of Ac. 0.09.25 cents by left the remaining extent as their vacant site. Likewise the said above Sundharam and Daniel had put up the thatched hut as their shelter to an extent of Ac. 0.06.75 cents on the Western side of the vacant site of Kannaiyaan, Naadiyaan and Marimuthu. In the

above circumstances by taking undue advantage of illiteracy and unawareness of Kannaiyaan, Naadiyaan and Marimuthu their vacant site encroached by the said above Daniel and Sundharam but which was no knowledge to the Kannaiyaan, Naadiyaan and Marimuthu because of their illiteracy. The said above Kannaiyaan and Naadiyaan were died.

After the demise Kannaiyaan and Naadiyaan they received the summon during the year of 2024 from R.D.O., Madurantakam on the petition preferred by petitioner/plaintiff for mutation of Patta. From that the respondents/defendants came to know that the petitioner/plaintiff had filed the suit in O.S. No.16/2017 with false and frivolous allegations and averments as against Mangai with intention to deprive some other properties. In fact in the enquiry before the R.D.O., Madurantakam from the statement of son of Mangai the respondents/defendants came to know the petitioner/plaintiff had obtained decree and judgement in the suit in O.S. No. 16/2017 on the file of District Munsiff Court at Madurantakam by misrepresentation and fraud. While so on due enquiry even the R.D.O., Madurantakam also found that the petitioner/plaintiff had not approached the District Munsiff Court at Madurantakam with clean and clear hands and he obtained the decree and judgement in O.S. No. 16 / 2017 by misrepresentation and fraud.

While so from the order of R.D.O., Madurantakam, the respondents/defendants came to know the petitioner/plaintiff is encroached the extent of Ac.0.01.75 cents out of Ac. 0.09.25 cents which belongs to the respondents/defendants and which left by the respondents/ defendants as the vacant site to their thatched huts which situate to an extent of Ac. 0.07.50 cents. In fact the father of petitioner/plaintiff namely, Daniel and his brother Sundharam were entitled to an extent of Ac. 0.06.75 cents alone in the suit property and apart from that they had no any right, title and interest over the remaining extent of AC 0.09.25 cents in the suit property. The above circumstances the claim of the petitioner/plaintiff over the suit property is highly erroneous and which is not sustained in the eye of law. When the Gramanatham Patta issued in the

name of the said above 6 persons, the petitioner/plaintiff claiming that the respondents/defendants are entitled only to a right of 1/3 share over the suit property is false and which will not be sustained in the eye of law. The petition is devoid on merits. Petitioner/plaintiff is not approached this Court with clean and clear hands. Hence this petition is liable to be dismissed with cost.

4. Counter of 4th respondent/ 4th defendant and the same is adopted by 3rd respondent/3rd defendant in brief:

The 4th respondent denies the allegations set out in the affidavit. Item Nos. 1 and 2 are classified as Gramanatham. Item nos 1 and 2 originally owned by 1) Kannaiyaan, 2) Naadiyaan, 3) Marimuthu (3rd defendant), 4) Mangai, 5) Sundharam and 6) Daniel. Government recognized their possession and enjoyment and issued Gramanatham Patta in November, 1993 in favour of them. In 1995 the above said Mangai had relinquished her 1/6th share in the same in favour of Kannaiyaan, Naadiyaan, Marimuthu, Sundharam and Daniel by receiving a sum of Rs.6,000/- from them for her son's marriage expenses. So, Kannaiyaan, Naadiyaan and Marimuthu were jointly entitled to 3 ½ /6th share over the Item Nos. 1 and 2 of the suit properties and likewise the said above Daniel and Sundharam were jointly entitled to a right of 2 ½ /6th share over the same.

In 1996 the said above Kannaiyaan, Naadiyaan, Marimuthu, Sundharam and Daniel had entered into an oral partition in which to an extent of Ac. 0.09.25 cents (3 ½ /6th share) had been allotted to the Kannaiyaan, Naadiyaan and Marimuthu on the Eastern side of the property to an extent of Ac. 0.06.75 cents (2 ½ /6th share) which allotted to the Sundharam and Daniel. There after the said Kannaiyaan, Naadiyaan and Marimuthu had put up separate thatched huts each according to their convenience over the suit property to an extent of Ac. 0.07.50 cents out of Ac. 0.09.25 cents by left the remaining extent as their vacant site. Likewise the said above Sundharam and Daniel had put up the thatched hut as their shelter to an extent of Ac. 0.06.75 cents on the Western side of the vacant site of Kannaiyaan, Naadiyaan and Marimuthu. In the

above circumstances by taking undue advantage of illiteracy and unawareness of Kannaiyaan, Naadiyaan and Marimuthu their vacant site encroached by the said above Daniel and Sundharam but which was no knowledge to the Kannaiyaan, Naadiyaan and Marimuthu because of their illiteracy.

After the demise of deceased Kannaiyaan and Naadiyaan the respondents received the summon during the year of 2024 from R.D.O., Madurantakam on the petition preferred by petitioner/plaintiff for mutation of Patta. Respondents/defendants came to know that the petitioner/plaintiff had filed the suit in O.S. No.16/2017 with false and frivolous allegations and averments as against Mangai with intention to deprive some other properties. In fact in the enquiry before the R.D.O., Madurantakam from the statement of son of Mangai the respondents/defendants came to know the petitioner/plaintiff had obtained decree and judgment in the suit in O.S. No. 16/2017 on the file of District Munsiff Court at Madurantakam by misrepresentation and fraud. While so on due enquiry even the R.D.O., Madurantakam also found that the petitioner/plaintiff had not approached the Hon'ble District Munsiff Court at Madurantakam with clean and clear hands and he obtained the decree and judgement in O.S. No. 16/2017 by misrepresentation and fraud.

While so from the order of R.D.O., Madurantakam the respondents/defendants came to know the petitioner/plaintiff is encroached the extent of Ac.0.01.75 cents out of Ac. 0.09.25 cents which belongs to the respondents/defendants and which left by the respondents/defendants as the vacant site to their thatched huts which situate to an extent of Ac. 0.07.50 cents. In fact the father of petitioner/plaintiff namely, Daniel and his brother Sundharam were entitled to an extent of Ac. 0.06.75 cents alone in the suit property and apart from that they had no any right, title and interest over the remaining extent of Ac. 0.09.25 cents in the suit property. The above circumstances the claim of the petitioner/plaintiff over the suit property is highly erroneous and which is not sustained in the eye of law. When the Gramanatham Patta issued in the

name of the said above 6 persons the petitioner/plaintiff claiming that the respondents/defendants are entitled only to a right of 1/3 share over the suit property is false and which will not be sustained in the eye of law. The petition is devoid on merits.

Hence this petition is liable to be dismissed with cost.

5. In enquiry, the Petitioner Exhibited P1 to P3. Respondent Exhibited R1 to R6. No oral evidence adduced by both parties.

6. Heard both sides. Perused the records carefully.

7. Point:

“Whether this application can be allowed or not?”

Petitioner has filed this application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure restraining the respondents/defendants, their men and agents from in any way putting up any terraced house or permanent construction in the suit schedule property pending disposal of the suit.

At this interlocutory stage, this Court is required to examine whether the petitioner has established (i) a prima facie case, (ii) balance of convenience, and (iii) likelihood of irreparable injury.

In nut shell, the petitioner claims that the suit properties are ancestral properties of Gengan, where after his death it was inherited by his sons namely Veerasamy, Appasamy and Manickam, that they each entitled to 1/3 share in the suit properties and that after death of Appasamy, his only legal heir namely Mangammal @ Ellammal sold her 1/3rd share to the petitioner and hence the petitioner claims title and possession over the suit properties.

Per contra the respondents who filed similar counter through different counsels defend that suit properties and remaining extent belongs to six persons including the vendor of the petitioner and that the said vendor of the petitioner relinquished her share to the other five persons in the year 1995 and hence the petitioner cannot claim

any right over the suit properties. Further it is the defence of respondents that the petitioner has encroached an extent of Ac 0.01.75 in the suit properties.

At the outset it is the case of petitioner that the suit properties and remaining extent belongs to sons of Gengan and that his sons each entitled to 1/3 share. On the other hand the respondents defend that the same was owned by six persons as per Ex P2 and R1 and hence petitioner cannot claim right of 1/3 share in the suit properties. Here the petitioner claims that Mangai sold her 1/3 share in the suit properties. In affidavit,

“Appasamy died leaving behind Mangammal @ Ellammal, who is entitled to 1/3rd share. She has sold her 1/3rd share to Anburaja through a decree passed in a specific performance suit in O.S No. 16/2017”.

So, as per averments of the affidavit only 1/3 share alone sold to the petitioner. There is no pleadings or explanation offered by the petitioner that how specific extent of suit properties that too middle portion as described in schedule of properties exclusively owned by Mangammal, the vendor of the petitioner. In the absence of the same the petitioner cannot claim any exclusive extent in the suit properties. Even the Ex P1, the sale deed would not recite that how Mangammal had derive exclusive title to the suit properties. No doubt that as per Ex P2 and R1, the said Mangammal had right of share over the same. But there is no document to show that how Mangammal had exclusive title to the suit properties. So, it cannot be concluded that the petitioner has prima facie case.

Next there is no document produced to show that the petitioner is in exclusive possession over the suit properties. Admittedly the suit properties are grama natham properties, where the natham adangal extracts would prove the possession of the same. But there is no document to show that the petitioner is in exclusive possession over the suit property. Question of division of shares whether 1/3 or 1/6 and also the alleged relinquishment by Mangammal cannot be decided here and the same can be

decided only after full trial. Anyhow at any point of corner the petitioner can claim only share in the suit properties, as his vendor herself cannot claim any exclusive right over the suit properties. Even the sale deed, Ex P1 in favour of the petitioner also would not show that the middle portion as stated in the plaint was sold to the petitioner. On this aspect also there is no prima facie case in favour of the petitioner.

Next if an injunction was granted the respondents alone would put to loss and hardship as they are also co-owners of the suit properties. So, the balance of convenience is also not in favour of the petitioner. On this score also this application deserves to be dismissed.

In summation of above said discussions, at the best this court can conclude that the petitioner would be a co-sharer with the respondents and that an injunction cannot be granted as against co-owner. Further the proportionate share can be decided only after trial and it cannot be decided in this application. Hence the petitioner is not entitled to the relief of temporary injunction and this point is decided accordingly.

9. Result:

In the result, this application is dismissed as devoid of merits. No costs.

Dictated by me to the Steno-Typist, typed by him in the computer directly, corrected and pronounced by me in the open court, this the 07th day of April, 2026.

Subordinate Judge,
Madurantakam

I. Petitioner side evidence: Nil

II. Petitioner side Exhibits :

Ex.P1	20.09.2018	Registration Copy of Court Sale Deed executed by Ellammal @ Mangammal in favour of Anburaj.	Certified Online Copy.
Ex.P2	15.03.2024	Natham Patta Extract.	Web Copy.

Ex.P3		Rough Sketch.	Xerox Copy.853.956
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III. Respondent side Evidence : Nil

IV. Respondent side Exhibits :

Ex.R1		Natham Patta Extract.	Original.
Ex.R2		A-Register.	True Copy.
Ex.R3	28.07.2001	House Tax Receipt.	Original.
Ex.R4		Patta Extract.	Original.
Ex.R5	18.02.2019	Patta Extract.	E-Certificate.
Ex.R6	01.04.2025	Copy of Order issued by Revenue Divisional Officer, Madurantakam.	Original.

Subordinate Judge,
Madurantakam

FAIR/DRAFT ORDER
I.A No. 2/2026
in
O.S No. 14/2026
D.D: 07.04.2026
SUB COURT,
MADURANTAKAM