

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
CHEYYUR

Present: Tmt. V.Devapriya, B. Sc., M.L.
District Munsif-cum-Judicial Magistrate, Cheyyur (FAC)

Wednesday, the 26th day of March, 2025

I.A.No.90/2023

in

O.S.No.17/2023

M.Geethanjali

...Petitioner/Plaintiff

-Vs-

1. **M.Yamuna

(Amended as per order IA.232/2020, dated 07.11.2023)

2. M.Eeswari

3. Selvi.M.Kavitha

4. ** Selvi.M.Rajalakshmi

(Amended as per order in IA.No.232/2023, dated 07.11.2023)

...Respondents/Defendants

This petition coming up before me on 06.03.2025 for final hearing in the presence of, Thiru.G.S.Suresh Babu, counsel for Petitioner/Plaintiff and Thiru.V.Ranganathan, counsel for Respondents/Defendants and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Plaintiff under Order XXXIX

Rule 1 and 2 of Code of Civil Procedure, for temporary injunction restraining the Respondents/Defendants, their men, agents and servants from in any way not to interfere the peaceful possession and enjoyment of Plaintiff's suit "A" schedule properties till the disposal of the suit.

2.The averments stated in the petition, in brief :

The Petitioner/Plaintiff had filed the above suit for permanent injunction. Originally the suit properties were acquired by her husband Murugan and his brother Mohandoss, who is the husband of 1st Respondent/1st Defendant and the father of Respondents 2 to 4 under schedule "A" of partition under the registered partition deed dated 27.03.1992 bearing document No.384/1992 entered into between Nataraja Naicker and two others and that the partition deed was duly registered, acted upon and came into force. In that partition deed that the recital of the partition that the "A" schedule was allotted to Nataraja Naicker only for life interest and after that, the properties will devolve into her husband Murugan and his brother Mohandoss. After death of Nataraja Naicker her husband Murugan and his brother Mohandoss have divided the suit properties and mutation was effected as new sub division in the revenue records and as per mutation, the suit "A" schedule properties were allotted to her husband Murugan and suit "B" schedule properties were allotted to his brother Mohandsoss, who is the husband of 1st Respondent/1st Defendant and the father of Respondents 2 to 4/Defendants 2 to 4

3. The said Murugan had executed a registered settlement deed in favour of the Petitioner/Plaintiff in respect of the suit “A” schedule properties under the registered settlement deed dated 11.09.2018 bearing document No.2257/2018 and that the settlement deed was duly executed, registered, acted upon and came into force. Since the date of execution of settlement deed the Petitioner/Plaintiff have been in physical possession and enjoyment of the suit “A” schedule properties and the Government had also recognized his title and possession and granted separate patta to her in respect of suit “A” schedule properties under patta No.196.

4. The said Mohandoss died leaving behind the Respondents/Defendants as his legal heirs and the Respondents/Defendants have been in physical possession and enjoyment of the suit “B” schedule properties and the Respondents/Defendants have been enjoying the water pond area in front of the suit “A” schedule properties in item No.1 that is on the eastern side of item No.1 of “A” schedule properties. The 3rd Respondent/3rd Defendant is highly influenced person with revenue officials who is working in the revenue department in Taluk Office at Cheyyur and taking undue advantage of working as a staff in the revenue department on 28.03.2023, the 3rd Respondent/3rd Defendant along with other respondents have high handedly trespass over the suit properties particularly in item No.1 of “A” schedule properties by way of unlawfully leveling the land through JCB and thrown out the coconut trees and also demolished the fencing cement pillars which is situated in her patta lands of item No.1 of “A” schedule properties.

5. Immediately her husband lodged a police complaint before the Inspector of Police at Anaicut Police station on 29.03.2023 stating that the 1st Respondent/1st Defendant and the 3rd Respondent/3rd Defendant have trespass over the suit properties and demolished the fencing pillars and also thrown out the coconut tress which is situated in the patta land of item No.1 of suit “A” schedule properties and that the Sub Inspector of police at Anaicut had issued a CSR memo to her husband and still the enquiry is pending. Further, the Respondents/Defendants may renew their attempt in future to trespass over the suit properties. Hence the petition.

6. The averments stated in the counter filed by the 3rd Respondent/3rd Defendant adopted by the 1, 2, 4th Respondents/ 1, 2, 4th Defendants, in brief:

This petition is not maintainable in law and on facts. The averments stated in the affidavit are false. The Petitioner/Plaintiff not come to court with clean hands, the respondents owning properties on the western side of the suit “A” schedule property and eastern side of S.No.285/5. The Respondents/Defendants never disturbed the Petitioner/Plaintiff nor her husband in respect of possession of “A” schedule property. There is no dispute between Petitioner/Plaintiff and Respondents/Defendants in respect of suit “A” and “B” schedule properties. There is no cause of action. The alleged cause of action in the plaint his false.

7. There is no partition between Petitioner/Plaintiff’s husband and Respondent/Defendant’s father in respect of suit property. But the Petitioner/Plaintiff’s husband created a settlement deed and effected sub division

without consent of the Mohandoss. The Respondents/Defendants owning bore and EB service in S.No.326. The Respondents/Defendants having pipe line from S.No.326 to S.Nos.285/2A, 2B and 1B through S.No.285/5. The S.No.285/5 is Odai Poramboke. The pipe lines was laid by the said Mohandoss, 15 years ago. But the Petitioner/Plaintiff and her husband damaged the pipe line which runs in S.No.285/5 on the southern side of S.No.285/2B. The Petitioner/Plaintiff and her husband Murugan have no right to disturb the pipe line. Even though in the partition deed right of access and taking water right given to all the sharers. Hence the Respondents/Defendants have right to take water pipe line through “A” schedule property. But the Respondent/Defendant using pipe line only in S.No.285/5.

8. The Petitioner/Plaintiff husband Murugan always enimical with the Respondents/Defendants family. There is no cordial relationship with the Respondents/Defendants. The said Murugan damaged the pipe line in S.No.285/5 and this Respondent/Defendant given a police complaint on 30.03.2023 and the police officials enquired the occurrence and advised the Petitioner/Plaintiff’s husband Murugan not to disturb the pipe line used by Respondents/Defendants. Thereafter the Petitioner/Plaintiff filed this false case against the Respondents/Defendants. The Respondents/Defendants never disturbed or trespassed into “A” schedule property. The Respondents/Defendants are taking separate steps against Petitioner/Plaintiff and her husband in respect of pipe line running in S.No.285/5. There is no merits in this application. Hence, this petition is liable to dismissed with costs.

9. The point for determination is whether this petition is to be allowed or not?

10. On the side of Petitioner/Plaintiff, Exhibits P1 to P8 marked and on the side of Respondents/Defendants no exhibits was marked and no witnesses were examined on both sides.

11. Heard both sides and perused the records.

12. The Petitioner/Plaintiff had filed this petition for grant of temporary injunction for restraining the Respondents from interfering their possession in the suit property. The Respondents/Defendants resisted the petition stating that they had not interfered the Petitioners' possession in the suit property and that they have the right to take water from the S.No.285/5, which is the odai poromboke.

13. According to Petitioner/Plaintiff, the suit property was allotted to her father-in-law, Nataraja Naicker during partition between himself and his sons, one Murugan, who is the husband of Petitioner and one Mohandass, who is the husband of 1st Respondent and father of Respondents 2 to 4/Defendants 2 to 4 under partition deed dated 27.03.1992. The Exhibit P-1 shows that the suit whole survey number was allotted to said Nataraja Nicker. As per the said partition, the said Nataraja Naicker has only life interest and that after his demise, his sons acquired the suit property survey number.

14. The Petitioner/Plaintiff allege that her husband and his brother had partitioned the suit survey number and other properties and accordingly the revenue records were mutated and that her husband had settled the suit properties in her favour. The Exhibit

P-2 prima facie shows that the suit properties were settled to the Petitioner/Plaintiff by her husband, Murugan. The Exhibit P-3 stands in favour of the Petitioner/Plaintiff for the suit "A" schedule properties and Exhibit P-4 stands in favour of the said Mohandass for the new subdivision, which is suit "B" schedule properties.

15. The Respondents/Defendants had not disputed the Petitioner/Plaintiff's title over the suit properties and had stated that they are residing on the western side of the suit properties, which was also shown in the boundaries of the suit properties. The Exhibits P-5 and P-7 prima facie shows that there is dispute between the Petitioner/Plaintiff and the Respondents/Defendants. On considering the facts of the case and the materials placed on record, this court is satisfied that there is prima facie case and balance of convenience in favour of the Petitioner/Plaintiff and that she will suffer irreparable loss, if the injunction is not granted. Hence for the foregoing reasons, this court is inclined to allow this petition.

16. In the result, this petition is allowed and interim injunction is granted restraining the Respondents/Defendants from, in anyway, interfering with the Petitioner/Plaintiff's peaceful possession and enjoyment of the suit "A" schedule properties, till the disposal of the suit.

Typed by me in my laptop, corrected and pronounced by me in open court on this the 26th day of March, 2025.

District Munsif cum
Judicial Magistrate
Cheyyur (FAC)

Petitioner side witnesses:

NIL

Petitioner side documents:

- Ex P1 - Certified copy of partition deed dated 27.03.1992
- Ex P2 - Certified copy of Settlement deed dated 11.09.2018
- Ex P3 - Online patta No.196
- Ex P4 - Online patta No.1909
- Ex P5 - Copy of CSR No.216/2023, dated 29.03.2023
- Ex.P6 - Kist receipt dated 03.04.2023
- Ex.P7 - Photos (9 Nos)
- Ex.P8 - CD

Respondents side witnesses & documents:

NIL

District Munsif cum
Judicial Magistrate
Cheyyur (FAC)