

**In Court of the District Munsif Cum Judicial Magistrate No.1, Kodaikanal**

**Present: Thiru. R. Arun Pandian., B.A., B.L., (Hon's) M.L.,**

**District Munsif Judicial Magistrate No.1 Kodaikanal.**

**Tuesday, this is the 7th day of April – 2026**

**IA.No.2/2026**

**in**

**O.S. No.2/2026**

1. Raj

2. Vasagan

3. Chinnakalai

4. Palanisamy,

5. Chandra

6. Pari

... Petitioners / Plaintiffs

/versus/

1. Palpandi

2. Mookaiah,

3. Kannuchamy

4. Ganeshan

5. Panja Raj

6. Pugal Pandi

... Respondents / Defendants

This petition is heard in the presence of Mr.Muthukannan, the Learned counsel for the Petitioners and Mr.John Jayaseelan Jacop, the Learned counsel for the Respondents. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

**ORDER**

1. This Petition is preferred by the Petitioner under Order 39 Rule 1 and 2 of the Code of Civil Procedure (In short, 'the Code').

2. The Petitioner are the Plaintiff and the Respondents are the Defendants in the main suit respectively. For the sake of convenience, the parties are referred to as their status in the present petition.

**3. The crux of the petition is as follows:**

The suit specified property is identified as S.No 1187/2 in total measuring 267.75.00 Hectares, of which 40 Acres of Land is the parcel of land upon which the right is asserted. The suit scheduled property is comprised in Kookal Village of Kodaikanal. The suit scheduled property is accounted to encompass within it a metal sheeted roofing house structure. The suit specified property is said to be originally possessed and enjoyed by Veeranathevar and his wife Sevanthammal. The petitioners are accounted to be the heirs and the descendants of the said Veeranathevar. The petitioners claims to be in the possession and enjoyment of the suit property, and the housing structure comprised in the suit property is claimed to with the possession of the petitioners, and the property tax were placed to assessed and paid to the Kookal Panchayath. It is the case of the petitioners that on 16.07.2025 and 17.09.2025, the respondents attempted to trespass unlawfully in the suit scheduled property and placed to have interfered in the possessory rights of the petitioners. Imputed to have interfered in the possessory right of the petitioner. The same was accounted to be thwarted by the petitioners. Being aggrieved the petitioner has preferred this petition praying to pass an order of temporary injunction restraining the Respondents from interfering the propriety right of the suit property, until the conclusion of the suit.

**4. The respondents filed a memorandum to adopt the written statement filed in the main suit as counter pertain the petition, and its summarised contention is as follows :**

It is specified by the respondent and contented that, the identity and the description details of the suit scheduled property is not denied. The respondents contended that the suit scheduled property belongs to Periyakannuthevar, and the respondents claims to be the legal heirs and descendants of the said Periyakannuthevar. It is asserted that the said Periyakannuthevar deceased in the 2007, and from therein the suit specified property was possessed and enjoyed by the respondents. The respondents asserts that affirming the factum of possession the Revenue Inspector of Kodaikanal, issued notice under section 5 of the Tamil Nadu Land Encroachment Act. The respondents staking claim to the possession of the suit property, imputed that it is the petitioners who interfered in the possessory right of the respondents on 10.07.2025 and 07.10.2025.

Thus placing the aspects above, the respondent asserted that the matter required determination of right of the parties, and prayed the interlocutory application be dismissed

**5. The point to be decided as to whether the petition is liable to be allowed or not?**

6. In deciding upon interlocutory relief as claimed by the petitioner, the petitioner must place and establish the existence of prima facie right and infringement of such right. A prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence which led in support of the same is believed. In the present case for consideration both the parties to the suit/petition claim right over the suit property which is a property of the government. The petitioners trace their right through person named Veeranathevar. Whereas the respondents trace their right through Periyakannuthevar. The suit scheduled property being a government land is not disputed. The contending rival claim placed by both the petitioner and respondent appertains to a land measuring 40 Acres of public property. Even the frame work of law i.e. the Tamil Nadu Land reforms (Fixation of ceiling on land) Act prescribes an upper limit of 30 acres. This court is conscious of the fact that the present adjudication is confined only to the determination of possessory rights inter se. The petitioner traces his alleged right of possession to the proceedings of the Thasildhar, said to have been issued in response to a query raised by the police. On the other hand, the defendant asserts their claim of possession based on a notice issued under the provisions of the land encroachment Act. The conduct of the revenue authorities in this regard appears to be uncertain and open to serious question. The very foundation of possession as claimed by the respective parties becomes clouded and contentious. The matter requires deliberation and ascertainment with respect to possessory right as asserted by the petitioner and the respondent. In such circumstance, the element of a prima facie case stands excluded. The main suit being claiming relief for bare injunction, the court being concerned only element of possession and determination of possessory right at the interlocutory stage would tantamount to deciding the very subject matter of the suit, which the law does not permit.

7. The primary relief sought by the petitioner is to restrain the respondent from allegedly interrupting and unauthorised interference with possession, with regard the suit schedule properties. Upon consideration of the interim application and the counter placed resisting the same, it stands emerged that the case of petitioner involves ascertainment of material facts, likely the facts as to the possessory right. There exists a necessity to decide whether there is an actual infringement of the rights of the plaintiff in relation to the suit property. The comparative mischief, hardship or inconvenience which is likely to be caused to the petitioner by refusing the injunction will be greater than that which is likely to be caused to the respondent, is not sufficiently placed. Mere assertion by the petitioner that he is in possession of the suit property is not, by itself, sufficient to justify the grant of interim relief, unless such possession and corresponding rights are established by sufficient and credible means. The right asserted by the petitioner is seriously disputed and requires full fledged trial for its resolution. Furthermore, the petitioner has not demonstrated balance of convenience in his favour. Conversely, if injunction were granted now and later found to be unjustified, the prejudice to the respondent would be substantial and possibly irreversible. The aspect namely the non interference by the court would result in irreparable injury which cannot be adequately compensated in terms of damages as held in **Colgate Palmolive(India) Ltd Vs Hindustan Liver Ltd AIR 1999 SC 3105**, stands unaddressed by the petitioner.

8. Therefore, it would be just and proper if the parties face trial and let in evidence to substantiate their respective stand. This being so, this Court is of the view that at this stage, prima facie case could not be traced out. This court is of the considered view that the debatable issues could be adjudicated only when the parties let in evidence in the trial.

It is also expressly made clear that the above observations made by this Court are not on the merits of the case.

Accordingly, the point is answered in negative.

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

Dictated by me to the Steno-Typist directly and typed by him in the lap-top and corrected and pronounced by me in the open court on the 07<sup>th</sup> day of April 2026.

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**Evidence and Documents:-**

1. Petitioner Side Evidence and Respondents Side Evidence : Nil
2. Petitioner side documents and Respondents side documents: Nil

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