

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE  
NO.01, KODAIKANAL, DINDIGUL DISTRICT**

**Present: Thiru. R. ARUN PANDIAN B.A.,B.L.,(Hons). M.L.,**  
District Munsif cum Judicial Magistrate No.01, Kodaikanal  
Thursday, the 3<sup>rd</sup> day of July, 2025.

**I.A.No.156 of 2021**

**In**

**O.S.No.59 of 2021**

V.Anthonydass ... Petitioner / Plaintiff

/versus/

1.Ganapathy,  
2.Salamat  
3.Waheeda Parveen ... Respondents / Defendants

This petition is heard in the presence of Mr.P.Prabhakar, the Learned counsel for the Petitioner / Plaintiff and Mr.A.Mohamed Mydden, the Learned counsel for the R2 and R3 Respondents / Defendants, R1 set expate on 14.07.2023 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 Petitioners is the Plaintiff and the Respondent's R1 to R3 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 S.No 54/12 measuring 15 cents was primarily accounted to be a government poramboke land, the said same initially placed to possessed and enjoyed by person namely Arumuga Gounder. Wherein he accounted to have alienated the said property by means of unregistered deed, in favour of the petitioners father namely Velangani on 27.06.1980, therein which the possession and enjoyment placed vested on the petitioner's father and the petitioner. It is the assertion of the petitioner that B Memo was assessed in the name of the petitioner, with regard the suit schedule property. The factum being so, it is contended by the petitioner that by illicit methods patta stood conferred to the 2<sup>nd</sup> respondent with regard the suit property, by the strength of which R2 alienated the same to R3. In reliance upon the said patta the respondents R1 to R3 attempted encroach upon the suit property. The same was accounted to be thwarted by the petitioner. Being aggrieved the petitioner has preferred this petition praying to pass an order of temporary injunction restraining the Respondent's from interfering the possession and enjoyment of the suit property, until the conclusion of the suit

**4. The respondent filed 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, that the suit specified property measures to an extent of 28 cents, the same initially being a Government poramboke land, was accounted to be possessed and enjoyed by person namely Mani S/o Murugan. The said Mani having alienated the same by means of unregistered deed in favour of the R2 herein on 14.10.1985, the possession and enjoyment

placed vested on the R2. Thereafter R2 placed to have erected a farm house (Door No W3/425A) on the said suit property. It was contended by the respondent's that based on the long held possession of the R2, application was preferred and enquiry held patta was issued in the name R2 by the Assistant Settlement Officer, Chennai. Following which mutation of revenue records was effected and Patta 729 was issued. Placing the aspects and describing the basis on which title was acquired, refuting the claim of the petitioner, respondent's herein 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. Therefore, now it has to be seen as to whether the petitioner has established the prima facie case and balance of convenience in his favour and care to be made to see that there should not be a detailed investigation. I am obliged to refer KamalHasaan @ Anr. v. M/s.P.L.Finance and Investment Ltd. and others., 2008-3-L.W. 805, in which the Division Bench of the Hon'ble High Court has emphasized that unless a prima facie case is shown, the parties are not entitled for injunction under Order 39 Rule 1 and 2 CPC. The relevant passage of the said Judgment would run thus:

“Latin expression “Prima facie” means at the first sight or in the first appearance or on the face of it so far as can be judged from the first disclosure. In order to make a prima facie case, the plaintiff must put forth such evidence as in the judgment of law is sufficient to establish the fact and if not rebutted remains sufficient for that purpose. In the instant case, the plaintiffs rested

their entire case on the sale deed which was found to be defective as mentioned above. The plaintiffs have got an opportunity to explain away the same at the time of trial by adducing necessary and sufficient evidence. At this juncture, it is pertinent to point out that on the strength of the materials now available, it cannot be held that the plaintiffs have shown to have a prima facie case entitling for interim order of injunction.....”

(Emphasize supplied)

7. The petitioner in the main suit impugns the patta granted in-favour of the respondent. Whereas the contention of the respondent being that, pursuant to an enquiry by the competent authority, the patta was lawfully issued. The petitioner relies on the B Memo, and respondent bases upon the patta, delving into the matter in detail at this stage would be inappropriate, as it would lead to a mini-trial in an interlocutory matter. The possession aspect of portion of the suit scheduled property is disputed which requires further elucidation. Both claims the possession of the suit property vests with them, a detailed analysis at this stage would run contrary to the principle of a prima facie consideration. The prima facie aspect of exclusive possession stands enigmatic. 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, at this stage, in my considered view, the petitioner could not establish prima facie case in his favour. Therefore, it would be just and proper if the parties face trial and let in evidence to substantiate their respective stand.

9. 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.

10. 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 03<sup>rd</sup> day of July 2025.

**District Munsif Cum  
Judicial Magistrate No.01,  
Kodaikanal.**

**Both side witnesses and documents: Nil**

**District Munsif Cum  
Judicial Magistrate No.01,  
Kodaikanal.**