

IN THE COURT OF THE DISTRICT MUNSIF, SATHYAMANGALAM

**Present: Tmt.S.Susila B.A.,B.L.,
District Munsif, Sathyamangalam.**

Tuesday the 12th day of August 2025

I.A.No: 11/2025 in O.S.No:71/2015

1. Lakshmibhai
2. Balasaraswathi
3. Balaprakalanayaki

..... Petitioners/Plaintiffs

/Vs/

1. K.V.Balasampathkumar
2. V.Chandrasekaran
3. Mrs.S.Vijalakshmi
4. V.Ravikumar

..... Respondents/Defendants 9 to 12

This petition came up for final hearing on 02.08.2025 in the presence of Thiru.G.Sundaram Advocate for the Petitioners/Plaintiffs and Thiru.S.A.Mohamed Mubarak Advocate for the Respondents/Defendants 9th to 12th and upon hearing both the sides and on perusal of the case records and having stood over for consideration till this day, this court delivers the following.

ORDER

This petition has been filed by the petitioner U/O 39 Rule1 and 2 and Sec.151 of CPC to seeking temporary injunction restraining the respondents from in any manner encumbrance or alienate the petition property till disposal of the suit.

2. THE AVERMENTS OF THE PETITION IN BRIEF:-

The petitioner submitted that the suit is filed for relief of partition and

separate possession of the suit properties. The respondents taking advantage of the petitioners old age and condition, they are trying to alienate the property to 3rd party during the pendency of the case. The respondents have no right to do so. Notices were issued to the respondent but it was unserved. So the petitioners seeking temporary injunction restraining the respondents from in any manner encumbrance or alienate the petition property till disposal of the suit.

3. THE BRIEF AVERMENTS OF THE COUNTER IS AS FOLLOWS:

3.1 The petitioners have no right over the petition properties. on 12.12.1977 the 1st respondent's paternal aunts Thulasibai and Premabai and the petitioner herein, had willingly and voluntarily released their 3/7 shares in the properties of their father K.N.Balasamy Chettiar including the petition property, in favour of respondent's father K.B.Venkatesan, his mother Vedambal and her sons K.B.Narayanan and K.B.Bala Dhandapani by a registered release deed. This deed was acted upon for 47 years without any dispute. Further on 14.12.1977, the said Vedambal had executed a registered Will in favour of her 3 sons. One beneficiary K.B.Narayanan died before said Vedambal. The said Vedambal died on 15.06.1992. The remaining 2 sons inherited her entire share upon her death on 15.06.1992.

3.2 This suit is based on false grounds and has been delayed since filing in the year 2015. The respondents have not any intention to sell the property. There is no prima facie. Hence, the petition may be dismissed.

4. On the side of the petitioner, no oral evidence was adduced and no documentary evidence were marked. On the side of respondents, no oral and documentary evidence were marked.

5. POINTS FOR CONSIDERATION

Whether this petition filed for seeking temporary injunction Under/Order 39 Rule 1 and 2 has to be allowed or not?

5.1 The petitioner contention that they have right in the suit property and the I.A.No: 11/2025 in O.S.No:71/2015

respondents are trying to sell or encumber the same during the pendency of the suit. It may cause irreparable loss and multiplicity of litigation.

5.2 The respondents denied that the petitioner have no right or title over the suit property. The respondents rely on a registered release deed dated 12.12.1977, voluntarily executed by the petitioner's predecessors, voluntarily released their 3/7 share in favour of the respondents father and his mother and her other sons K.B.Narayanan and K.B.Bala Dhandapani. It was unchallenged for 47 years. The said Vedambal executed a Will dated 14.12.1977 for her 3 sons. One son was predeceased her. The said Vedambal died on 15.06.1997 and the said will came into force. The said K.B.Venkatesan and son K.B.Bala Dhandapani got the entire Vedambal shares.

5.3 Heard both side. There has been no oral or documentary evidence produced either side. The respondent further submit that they have no intention to sell or encumber the properties. On a careful consideration of the both side submission and records. It is seen that the petitioner have not established a prime facie case that respondents are trying to sell or encumber the property. The registered release deed and registered Will unchallenged for decades. It can be decided at the time of trial.

5.4 Further the petitioner have failed to establish any immediate threat of alienation or encumbrance of the suit property by the respondent. The respondent categorically undertaking that there is no intention to alienate the property. It is settled law that " **The purchaser pendant lite is also bound by the preliminary decree and final decree of the suit** "

5.5 Hence, no irreparable loss is shown to be caused to the petition if the injunction is refused. Hence, this court is not inclined to allow the petition. Hence, petition is dismissed without cost.

6. In the result, the petition is dismissed without cost.

Dictated to the Steno-typist, typed by him directly in computer, corrected, printed and pronounced by me in open court on this the 12th day of August 2025.

District Munsif,
Sathyamangalam.

Petitioner side exhibits marked:- - Nil -

Respondent side evidence and exhibits marked:- -Nil-

District Munsif,
Sathyamangalam.