

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, POCHAMPALLI**

Present: Thiru. M. Suriyakumar, B.A., L.L.B.,
District Munsif cum Judicial Magistrate, Pochampalli

Wednesday, the 29 day of April 2026

I.A. No. 01/2025

in

O.S. No. 57/2025

1. Devagi

Petitioners / Plaintiff

/Versus/

1. Subbiramani

2. Palaniyammal

3. Saravanan

4. Latha

Respondents / Defendants

This petition was taken on file on 20.08.2025 and came up for final hearing 15.04.2026, before the learned counsel for the petitioner, Thiru. G. Ashokkumar, the learned counsel for the respondents, Thiru. R. Kalimuthu and upon perusing the Petition, counter and the entire materials available on the records before this Court and having stood over for consideration till this day, this Court delivers the following

ORDER

This petition has been filed by the plaintiff under Order XXXIX Rule 1 of the Code of Civil Procedure seeking an order of temporary injunction restraining

the defendants from interfering with his alleged possession and enjoyment of the suit property.

1. THE GIST OF THE PETITION

1.1 The case of the petitioner/plaintiff, is that the suit property originally belonged to her father, from whom it was derived under a registered settlement deed dated 12.10.1984. It is further contended that the plaintiff and the defendants are close relatives. Due to her inability to personally supervise the property, the plaintiff and her sister had entrusted the same to the first defendant for the purpose of maintenance and agricultural operations. According to the plaintiff, the first defendant was only permitted to cultivate the land and share the income, and was not vested with any independent right over the property.

1.2 The plaintiff would further allege that, in the year 2018, it came to light that the first defendant had unauthorisedly utilised the electricity service connection and water resources in the suit property for his own lands, which led to disputes and issuance of legal notice. Thereafter, due to the alleged breach of trust, the plaintiff and his sister demanded that the first defendant vacate the property, and upon intervention by village elders in the month of July 2019, the first defendant is stated to have vacated the farmhouse. It is the further case of the plaintiff that he has commenced construction in the suit property, which is being unlawfully obstructed by the defendants, necessitating the present petition.

2. THE GIST OF THE COUNTER FILED BY THE RESPONDENTS :

2.1 The respondents contend that they are in continuous possession and enjoyment of the suit property. According to them, a sale agreement dated

14.07.2007 was executed by the plaintiff, her father, and her sister in their favour, and possession of the property was handed over on the same day. Respondent further stated that, pursuant to the said agreement, they have been in possession of the property, have put up a sheet structure, carried on agricultural activities, and subsequently commenced construction.

2.2 The respondents would further contend that, despite repeated demands made during the lifetime of the plaintiff's father and even thereafter, the plaintiff failed to execute the sale deed. In view of the close relationship between the parties, respondents did not initiate proceedings for specific performance. Respondents further that they continue to remain in possession of the suit property and deny the allegations of interference as put forth by the plaintiff.

3. No oral and documentary evidence adduced on both sides.

4. THE POINT FOR DETERMINATION

Whether the petition is liable to be allowed or not?

5. DISCUSSION

This petition has been filed by the plaintiff under Order XXXIX Rule 1 of the Code of Civil Procedure seeking an order of temporary injunction restraining the defendants from interfering with his alleged possession and enjoyment of the suit property.

6. It is a well settled principle of law that the grant of temporary injunction is governed by the three essential requirements, namely, (i) existence of a prima facie case, (ii) balance of convenience, and (iii) irreparable injury.

7. Upon consideration of the pleadings and materials placed on record, it is evident that there is no serious dispute with regard to the title of the plaintiff over the suit property. However, the primary issue that arises for consideration in the present application is with respect to the actual possession of the suit property.

8. In this regard, though the plaintiff relies upon revenue records such as Chitta, Adangal, and kist receipts, the same, by themselves, are not conclusive to establish present physical possession, especially in the light of the specific stand taken by the defendants. The plaintiff has not produced any clear and cogent material to demonstrate that he is in actual possession of the suit property as on the date of filing of the petition.

9. On the other hand, the defendants have also asserted possession based on the alleged sale agreement mutchhalika on 14.07.2007 and subsequent conduct, including construction activities and payment of House tax receipts and electricity charges. Thus, both parties have set up rival claims of possession, each supported by certain documents and assertions.

10. In such circumstances, this Court is of the considered view that the question of possession is a seriously disputed question of fact, which cannot be conclusively determined at this interlocutory stage and requires full-fledged evidence during trial.

11. Insofar as the requirement of prima facie case is concerned, though the plaintiff may have established title, he has failed to prima facie establish his possession over the suit property. In a petition for injunction relating to immovable property, possession assumes significant importance, and in the absence of clear

proof of possession, the plaintiff cannot be said to have made out a strong prima facie case.

12. The petitioner contends that, as stated in paragraph No. 8 of the petition, when the first respondent was requested to vacate the farmhouse allotted to the petitioner's sister, the first respondent refused to do so. It is further stated that, in July 2019, when the alleged illegal acts of the first respondent were placed before the village elders, and on their intervention, the first respondent vacated the said farmhouse. Thereafter, the respondents are stated to have developed unnecessary enmity against the petitioner's family.

13. On the other hand, the respondent has categorically denied the alleged ouster and has stated that he continues to be in possession of the suit property. It is further contended that, in the month of November, the plaintiff issued a legal notice alleging that the respondent had once again encroached upon the suit property and called upon him to vacate the same, to which a reply notice was also sent. Therefore, the petitioner has not conclusively established possession of the suit property, and a cloud continues to subsist over the same. In view of the rival contentions, the question of possession cannot be conclusively determined at this interlocutory stage and necessarily requires full-fledged evidence during trial. Hence, this Court is of the view that no strong prima facie case is made out in favour of the petitioner

14. With regard to the balance of convenience, both parties claim to be in possession and have asserted acts of enjoyment over the property. Granting an order of injunction in favour of the plaintiff at this stage would amount to recognising his possession, which is itself in serious dispute, and would prejudice

the rights of the defendants. Therefore, the balance of convenience does not lie at this stage in favour of the plaintiff.

15. As far as irreparable injury is concerned, both parties have made allegations regarding construction activities in the suit property. However, neither side has produced any document to substantiate as to who has undertaken such construction. Though the petitioner has filed certain documents along with the plaint, no document relating to the construction of any building has been produced. Likewise, the respondent has filed certain documents along with the additional written statement, such as house tax receipts and EB receipts; however, the same do not conclusively establish that the construction was made by the respondent. In the absence of clear and convincing material, the claim of irreparable injury cannot be satisfactorily established at this stage. However, such disputed factual aspects can be effectively adjudicated only during the course of trial. No material is placed before this Court to show that irreparable injury would be caused to the plaintiff if the injunction is not granted at this stage.

The principle laid down in the judgment of the Hon'ble Apex Court in (2010) 1 SCC 689 Kashi Math Samsthan and Another v. Shrimad Sudhindra Thirtha Swamy and Another is that,

It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party

concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted.

16. In view of the foregoing discussion, this Court is of the considered view that the plaintiff has failed to satisfy the essential ingredients required for the grant of temporary injunction.

In the result, this Interlocutory Application is dismissed. No costs.

Order directly dictated to the Steno-Typist, typed by him in computer and taken print out and after rectification of mistake, Pronounced by me in open court, this the 29th day of April 2026

Sd/-M. Suriyakumar, B.A., L.L.B.,

**District Munsif cum Judicial Magistrate
Pochampalli**

Appendix:

Plaintiffs' Side Witnesses & Documents : Nil

Defendants' Side Witnesses & Documents : Nil

Sd/-M. Suriyakumar, B.A., L.L.B.,

**District Munsif cum Judicial Magistrate
Pochampalli**