

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Tmt. M.Alima, B.A., L.L.M.,

I Additional District Munsif, Nagercoil.

Wednesday, on the 09th day of September, 2024.

I.A. No. 3 of 2023 in O.S. No. 88 of 2023

S.Lekshmanan

...Petitioner/plaintiff

-vs-

1. The State of Tamil Nadu rep.
by the District Collector,
Kanyakumari District at Nagercoil.

2. The Tahsildar
Agasteeswaram Taluk,
Kanyakumari District.

3. The Block Development Officer
(Village Panchayat)
Agasteeswaram Block Office
Kanyakumari District.

4. The District Environmental Engineer,
TamilNadu Pollution Control Board
Kanyakumari District.

5. The Panchayat President,
Nalloor Village Panchayat,
Agasteeswaram Taluk,
Kanyakumari District.

6. S.Shunmugam Asari

... Respondents/Defendants

This petition came before this court on 13.08.2024 for a final hearing in the presence of Mr. J. Bergin Jebakumar, Advocate for the Petitioner/Plaintiff,

Mr.C.Johnson, Government Pleader for the 1st to 5th Respondent/1st to 5th Defendant and Mr. C. Centhil Athiban, Advocate for the 6th Respondent/6th Defendant, 1st to 5th Respondent/1st to 5th Defendant were set ex parte on 09.08.2024 and upon perusing the case records. Having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner had filed the above petition under Order 39 Rule 1 and 2 and Section 151 of CPC seeking an order of ad interim injunction restraining the respondents/defendants of their men, or their agents or anybody not to interfere or disturb or evict the plaintiff's Carpenter shop work and business in the plaint schedule property in any manner, till the disposal of the suit on merits and thus render justice.

1. Gist of Averments in the Petition filed by the petitioner:

The petitioner/plaintiff had stated that the petitioner has filed a suit for getting a decree for permanent injunction restraining and other reliefs. Petitioner is the title owner of 1 ¼ cents extent of plot in Re.Sy.No. 134/30 of Eraviputhoor Village in Kanyakumari District vide in Doc. No. 2590/2015 of Edalakudy Sub Registry dated 25.09.2015. Petitioner has constructed one storey building in the plot and got plan approval from the Village Panchayat. Petitioner having 450 square feet Ground floor building area and conducting the Carpenter shop business within the small area which is my schedule property in this suit. Apart from that the plot was being utilized for Kolla Pattarai prior to the purchase by me. Petitioner is a Carpenter and skilled worker. The petitioner and his brother had been working as Carpenters under the guidance and contract work of the 6th defendant prolong period. Being it be at various places in Kerala State for so, he and his elder brother Kanagavel Murugan had planned to start their own Carpenter shop business at his hamlet Thanumalayanputhoo in Nalloor Village Panchayat. On 03.01.2023 Petitioner has started Carpenter shop business at his building Ground Floor bearing Door No.3/42A

of Nalloor Village Panchayat in Kanyakumari District. Petitioner and his family members have been residing in the said building first floor. I and my one brother Kanagavel Murugan are alone workers in the said Carpenter shop business, which is coming under the system of Small Scale Industries Unit. The 6th defendant is having his building on the western side of my schedule building. The 6th defendant was having cordial relationship with the Petitioner and his brother upto working under the control of the 6th defendant in Kerala State. Now the 6th defendant has developed great animosity with Petitioner after the desertion from the work under the 6th defendant. The 6th defendant has started to create problem to my above said Carpenter shop business from the year 2020 onwards due to the previous enmity. Petitioner using a 3 HP Motor Machine for polishing wooden material which is not harmful to anybody in the locality including the 6th defendant and it is permissible in the Village Panchayat locality and the manner of this working is prevalent in all over the State as under the system of Small Scale Industries Unit. The 6th defendant had hidden the reality connected with the usage of 3 HP Motor Machine and sent false complaints to the Government Officials i.e defendants 1 to 5 with fictitious allegations on 05.01.2023 that the petitioner using 13 HP Motor Machine for the polishing work instead of the real one 3 HP Motor. The 6th defendant has sent false complaints to the defendants 1 to 5 with intention to wreck the vengeance. The defendants 1 to 5 have not properly visited the Carpenter shop and believed the false allegations of the 6th defendant and started to act on the false allegations because of the atrocious activities of the 6th defendant. Petitioner has approached the Government Officials and stated correct explanations to them. The 6th defendant has alone created the false allegations in the locality and sent false complaints to the defendants 1 to 5. The locality Oor Community President cum Viswakarma Chief Trustee has already given requisition letter to the 5th defendant Panchayat President on 31.10.2022 for permitting me to conduct the Carpenter shop business in the plaint schedule property.

Petitioner tried to give application to the 4th defendant in the month of June 2022 for getting permission the shop business. The 4th defendant's certificate for conducting office personnel had read the application and refused to receive the application and orally stated to me that such a type of permission is not necessary for using the 3 HP motor because it is coming under the purview of Small Scale Industries. Apart from that the petitioner gave an application to the Forest Ranger. Aralvoimozhi in the month of July 2022 for seeking permission to conduct the shop business. The Forest Officials returned the application to me and simply informed to me that the said business is coming under the purview of Small Scale Industries and there is no necessity for getting permission from the Forest Officials. The plaintiff got plan approval from the Village Panchayat for conducting Carpenter shop business which is mentioned in the plan also. There is no sound pollution or environmental pollution formed through the usage of 3 HP Motor Machine. Apart from that the schedule property is not located in the thickly populated area and which is suitable for the said business. The plaintiff did not use any chemical for the work purpose and there is no chemical pollution through the work. More over the plaintiff got permission from Ministry of Michro Small and Medium Enterprises, Government of India through UDYAM REGISTRATION CERTIFICATE dated 09.02.2021. Petitioner entitled to conduct the said business as per the guidance and bye-law of Small Scale Industries. Petitioner met great financial loss due to the atrocious act of the 6th defendant. Being it be so, the 3rd defendant sent a registered notice to the petitioner dated 16.03.2023 which was received by the plaintiff on 22.03.2023. In the said notice the 3rd defendant had instructed the plaintiff to stop the business in the plaint schedule property. Petitioner and his brother are proletariat workers hailing from very poor family and they are fulling depending upon the business for their daily livelihood. There is no harm formulate in the locality as stated in the said notice and the harmful sensation is manipulated by activities of the 6th defendant with intention to wreck vengeance. The 6th defendant's above said act is against law and natural justice. No other go, Petitioner sent a registered legal notice to the defendants under the provision of 80

CPC through his counsel on 27.03.2023 for his remedies, which were received by the defendants. Petitioner did not get any proper reply and remedy from the defendants. Petitioner have taken affective steps to settle the matter in amicable manner with the 6th defendant which ended in vain. Hence the defendants have to be restrained by an order of permanent injunction restraining the defendants not to interfere in the Carpenter shop work and business in the plaint schedule property. Under the above said circumstances it is highly necessary and proper that an order of injunction has to be granted by this court restraining the defendants or their men, or their agents or anybody not to interfere or disturb or evict the plaintiff's Carpenter shop work and business in the Plaint schedule property in any manner. A petition for the said relief of injunction is filed herewith and that may be allowed in the interest of justice, equity and good conscience. If injunction is not granted, Petitioner will be put to irreparable loss and injury and his rights will be seriously prejudiced. Petitioner have a prima facie case in my favour and the balance of convenience is also in favour of granting the injunction order. Hence the petitioner prays that to allow this petition.

2. Gist of Averments in the counter filed by the 6th Respondent/ 6th Defendant :

The 6th Respondent/ 6th Defendant adopted the written statement in the main suit as counter to this I.A.No.3 of 2023. The 6th Respondent / 6th Defendant state that, all the averments contained in the petition except those that are specifically admitted or dealt herewith in the following paragraphs of this written statement are hereby denied. The Respondent/ Defendant had stated that except the averments that "the plot was being utilized for Kolla Pattarai prior to the purchase by the plaintiff and the plaintiff has put to strict proof for that. The plaint are hereby admitted partly that the plaintiff and his brother Kanagavel Murugan being worked under the guidance of the 6th defendant are not true, the plaintiff at any moment of time has not worked under the 6th defendant's guidance and for the rest of the averments in paragraph 2 of the plaint the plaintiff has put to strict proof for that. The Carpenter shop business was carried out by the plaintiff. The date of the beginning of the Carpenter business by the

plaintiff being on 17.01.2022 and not on 03.01.2023 as stated by the plaintiff. Moreover the plaintiff used 13 HP motor machines for polishing the wood and so the question of Small Scale Industry would not arise, the plaintiff has not having any permission from the relevant authority to run the business. It is admitted that plaintiff schedule property shop was situated at Door No.3/42A of Nalloor Village Parichayat. The 6th defendant is having his building on the western side of the plaintiff schedule property and having cordial relation with the plaintiff and his brother are alone admitted and "the 6th defendant has developed great animosity with the plaintiff after the desertion from the work under the 6th defendant are hereby denied strongly as false. Moreover the 6th defendant as the nearby residence of plaintiff schedule property attained several sleeping problem due to continuous noise, dust from the plaintiff schedule property shop work causing health hazard and the pollution (dust and sound pollution) and also create vibration too. The 6th defendant never given any disturbance to the plaintiff, the plaintiff used more HP motor machine for his work and caused disturbance to the nearby residence. Moreover the plaintiff "Carpenter-shop" found in the thickly populated residential area. The plaintiff has no permission to use 13 HP, motor machine which was crystal clearly found out by the Government officials who inspected the plaintiff scheduled shop. The permission from the Panchayat was not obtained by the plaintiff to run the carpenter shop and the usage high power motor machine for polishing the wood. The 6th defendant, the nearby residence of the plaintiff schedule property approached the plaintiff to stop the polishing work and the usage Heavy Power motors during the late night which causing severe problem to the public which was not heeded by the plaintiff and so the 6th defendant lodged noble complaint to the concerned official ie. to defendants 1 to 5. Moreover the 6th defendant not having any prior enmity over the plaintiff and given complaint only for the public health welfare. The defendants 1 to 5 have not visited the Carpenter Shop and believed the false allegation of the 6th defendant and stated to act on the false allegation because of the atrocious activities of the 6th defendant are not true

and so strongly denied as false, and for the rest of the averments in paragraph 8 of the plaint, the plaintiff has to put strict proof for that. Moreover the 6th defendant nobly advised the plaintiff to follow the rules but declined by the plaintiff to save the public health the complaints were given for the proper remedies. The 6th defendant has alone created the false allegation in the locality and sent false complaint to the defendants 1 to 5 were not true and so denied strongly. The letter dated 31.10.2022 given by one Mr.Ramalingam, Viswakarma Society President to the President, Nalloor Village Panchayat recommending the plaintiffs business, that "already wood polishing work was going on". So the letter dated 31.10.2022 crystal clearly proves the plaintiff illegally runned the polishing work shop without any prior permission from the concerned Government authorities. The plaintiff tried to give application to the 4th defendant in the month of July 2022 for getting permission certificate for conducting the wood polishing shop business The 4th defendant's office personal and read the application and refused to records the application was utter falsehood and so denied strongly and the averments that orally stated to the plaintiff that such a type of permission is not necessary for using the 3 HP motor are also utter false hood and the plaintiff has to put strict proof through documents for his allegation. The plaintiff has used 13 HP motor for his wood polishing work and so the Government official inspected the plaintiff's shop and confirm that and given letters to stop the wood polishing work. Moreover no permission to operate the same. The plaintiff has used 13 HP motor and deviate from the terms and condition and having any business approval or permission to run the business. The plaintiff never followed the guideline and by law of S.S.I and at any moment of time the 6th defendant never do any atrocious act against the plaintiff, to safeguard the 6th defendant's health and for the public welfare sent complaint against the plaintiff's illegal running of the shop in a thickly populated area i.e. within the Oor. The 3rd defendant Block Development Officer, Agasteeswaram Block Office sent a letter to the plaintiff along with the Government inspection letter to stop the Carpenter shop wood polishing work it is well clear from the letter dated 16.03.2023 that the plaintiff is using and used 13 HP

motor and unheartedly saying a false story that 3 HP motor alone in use and the plaintiff is having no permission for that. The brother of the plaintiff is doing work at difference place not with the plaintiff so the question of livelihood could not arise. Due to the plaintiff's activities the residence of the locality get affected daily by the sound and dust, moreover the plaint schedule property shop was situated in the public residential area. The 6th defendant's house stands as the western boundary of the plaint schedule property shop. Moreover the plaintiff and his family members are not residing in the plaint schedule property, Just to earn grace the plaintiff falsely avered a wrong concocted story against 6th defendant. Moreover the plaintiff has no bonafide with him and not having proper permission to carrying business and moreover using motors having high power i.e.13 HP motor. The 6th defendant received the advocate notice and approached the plaintiff and demanded to stop the work using 13 HP motor, the plaintiff nobly said to do the same and so no reply notice was given to the plaintiffs notice by the 6th defendant. The plaintiff simply narrated a concocted story in the plaint. The plaintiff is having liberty file proper application before proper office to get remedy by submitting the truth for his business. The plaintiff has not entitled to get any injunction order against the defendants because the plaintiff adamantly taken stands to run his business in the thickly populated residential area without the proper permission from the relevant authority. The plaintiff has no cause of action to file this suit against the 6th defendant and others. Just to harass and to give mental torment to the 6th defendant the plaintiff has filed this suit against the 6th defendant and others. The plaintiff has not approached this Honourable Court with clean hands. The suit itself is to maintainable under law and the natural justice. The plaintiff is not entitled to get any relief as stated in the plaintiff. Hence the respondent pray that to accept the counter and injunction petition, be dismissed the suit with costs and thus render justice.

- 3) The point for consideration is whether the above petition has to be allowed or not?

4) Point:

Both sides of the inquiry heard. Exhibit P1 to P10 and records perused.

5) The original suit has been filed by the plaintiff, for permanent prohibitive injunction against the defendants, restraining the defendants or their men or their agents or anybody not to interfere or disturb or evict the plaintiff's carpenter shop work and business in the plaint schedule property.

6) This petition has been filed by the petitioner, seeking an order of ad interim injunction restraining the respondents/defendants of their men, or their agents or anybody not to interfere or disturb or evict the plaintiff's Carpenter shop work and business in the plaint schedule property in any manner, till the disposal of the suit on merits and thus render justice.

7) It is an admitted fact that,

i) It is admitted that the plaint schedule property shop was situated at Door No.3/42A of Nalloor Village Parichayat.

ii) The 6th defendant is having his building on the western side of the plaint schedule property and having cardial relations with the plaintiff and his brother.

8) The petitioners main contention is that, the 6th defendant has started to create problems for my above-mentioned Carpenter Shop business from the year 2020 onwards due to the previous enmity. Petitioner using a 3 HP Motor Machine for polishing wooden material which is not harmful to anybody in the locality including the 6th defendant and it is permissible in the Village Panchayat locality and the manner of this working is prevalent in all over the State as under the system of Small Scale Industries Unit. The 6th defendant had hidden the reality connected with the usage of 3 HP Motor Machine and sent false complaints to the Government Officials i.e defendants 1 to 5 with fictitious allegations on 05.01.2023 that the petitioner using 13 HP Motor Machine for the polishing work instead of the real one 3 HP Motor. The

6th defendant has sent false complaints to the defendants 1 to 5 with intention to wreck the vengeance. The defendants 1 to 5 have not properly visited the Carpenter shop and believed the false allegations of the 6th defendant and started to act on the false allegations because of the atrocious activities of the 6th defendant. Petitioner has approached the Government Officials and stated correct explanations to them. The 6th defendant has alone created the false allegations in the locality and sent false complaints to the defendants 1 to 5. The locality Oor Community President cum Viswakarma Chief Trustee has already given requisition letter to the 5th defendant Panchayat President on 31.10.2022 for permitting me to conduct the Carpenter shop business in the plaint schedule property. Petitioner tried to give application to the 4th defendant in the month of June 2022 for getting permission the shop business. The 4th defendant's certificate for conducting office personnel had read the application and refused to receive the application and orally stated to me that such a type of permission is not necessary for using the 3 HP motor because it is coming under the purview of Small Scale Industries.

9) The main contention of the respondent is that, the 6th defendant never given any disturbance to the plaintiff, the plaintiff used more HP motor machine for his work and caused disturbance to the nearby residence. Moreover the plaintiff "Carpenter-shop" found in the thickly populated residential area. The plaintiff has no permission to use 13 HP, motor machine which was crystal clearly found out by the Government officials who inspected the plaint scheduled shop. The permission from the Panchayat was not obtained by the plaintiff to run the carpenter shop and the usage high power motor machine for polishing the wood. The 6th defendant, the nearby residence of the plaint schedule property approached the plaintiff to stop the polishing work and the usage Heavy Power motors during the late night which causing severe problem to the public which was not heeded by the plaintiff and so the 6th defendant lodged noble complaint to the concerned official ie. to defendants 1 to 5. Moreover the 6th defendant not having any prior enmity over the plaintiff and

given complaint only for the public health welfare. The plaintiff never followed the guideline and by law of S.S.I and at any moment of time the 6th defendant never do any atrocious act against the plaintiff, to safeguard the 6th defendant's health and for the public welfare sent complaint against the plaintiff's illegal running of the shop in a thickly populated area i.e. within the Oor. The 3rd defendant Block Development Officer, Agasteeswaram Block Office sent a letter to the plaintiff along with the Government inspection letter to stop the Carpenter shop wood polishing work it is well clear from the letter dated 16.03.2023 that the plaintiff is using and used 13 HP motor and unheartedly saying a false story that 3 HP motor alone in use and the plaintiff is having no permission for that. The brother of the plaintiff is doing work at difference place not with the plaintiff so the question of livelihood could not arise. Due to the plaintiff's activities the residence of the locality get affected daily by the sound and dust, moreover, the plaint schedule property shop was situated in the public residential area.

10) The trial in the case has not been initiated. It is only after trial that this court can decide the following issues:

- i. Whether the plaintiff used more HP motor machines for his work and caused disturbance to the nearby residence?
- ii. whether the plaintiff "carpenter-shop" was found in the thickly populated residential area?
- iii. whether the permission from the Panchayat was not obtained by the plaintiff to run the carpenter shop and the usage of a of a high-power motor machine for polishing the wood?
- iv. whether the plaintiff never followed the guideline and by law of S.S.I. and at any moment of time ?
- v. whether the plaintiff has no cause of action to file this suit against the 6th defendant and others?

11) Further on perusal of the Ex.P8 it reveals that in notice the 3rd defendant block development officer stated that, " திரு.S. லெட்சுமணன், த/பெ.சங்கரலிங்கம் ஆசாரி - என்பவரால் சுகாதாரத்துறை, தமிழ்நாடு மாசுக்கட்டுப்பாட்டு வாரியம் மற்றும் ஊராட்சி ஒன்றியக்குழுவின அனுமதி பெறாமல் 13 குதிரை சக்தி (HP) திறன் கொண்ட மோட்டார் இயந்திரம் மூலம் குடியிருப்பு பகுதிக்கு மத்தியில் மரம் சீவும் பட்டறை நடத்தப்பட்டு வருகிறது. பார்வை 1-ல் காணும் சுகாதாரத்துறை துணை இயக்குநரின் கடிதத்தில் மரப்பட்டறை உரிமையாளர் ஒரு மாத காலத்திற்குள் மரம் பட்டறையை வேறு இடத்திற்கு மாற்றம் செய்வதாக தெரிவித்துள்ளதாக குறிப்பிடப்பட்டுள்ளது. பார்வை 3-ல் காணும் வட்டார சுகாதார மேற்பார்வையாளரின் கடிதத்தின் அனுமதி பெறாமல் செயல்பட்டு வரும் மரப்பட்டறை பணியை நிறுத்தி தெரிவிக்கப்பட்டுள்ளது. பார்வை-4 ல் காணும் கடிதத்தில் தமிழ்நாடு மாசு கட்டுப்பாடு வாரிய மாவட்ட சுற்றுச்சூழல் பொறியாளர் கள ஆய்வு மேற்கொண்டு மரப்பட்டறை குடியிருப்புகளுக்கு அருகாமையில் அமைந்திருப்பதும், மாசு கட்டுப்பாடு வாரியத்தின் இசைவாணை வழங்கப்படாமல் செயல்பட்டுவருவதால் பொது சுகாதார வாரியத்தின் இசைவாணை வழங்கப்படாமல் செயல்பட்டுவருவதால் பொது சுகாதார சட்டத்தின் கீழ் நடவடிக்கை எடுக்க தெரிவிக்கப்பட்டுள்ளது. மேலும், வட்டார சுகாதார மேற்பார்வையாளரால் பொது சுகாதாரச் சட்டம், 1993 பிரிவு 41(8)-ன் படி மக்கள் வசிக்கும் பகுதியில் அமைந்துள்ள மரப்பட்டறை தொல்லை தருவதாக அமைந்துள்ளதால் 7(ஏழு) நாட்களுக்குள் மரப்பட்டறையை நிரந்தரமாக நிறுத்தவும் அல்லது அகற்றவும் தெரிவிக்கப்பட்டது. ஆனால், மரப்பட்டறை உரிமையாளர் எந்த நடவடிக்கையையும் மேற்கொள்ளாமல் விதிமுறைகளை மீறி செயல்பட்டு வருவது சட்ட விரோதமானது. எனவே, இவ்வறிக்கை கிடைக்கப்பெற்ற 7(ஏழு) நாட்களுக்குள் மரப்பட்டறையை நிரந்தரமாக மூடி அதிலுள்ள உபகரணங்கள் மற்றும் இயந்திரங்களை இடமாற்றம் செய்திட தெரிவிக்கப்படுகிறது. தவறும் நிகழ்வில் மரப்பட்டறையை நிரந்தரமாக மூடி அரசு விதிகளின் படி நடவடிக்கை எடுக்கப்படும் என

அறிவிக்கப்படுகிறது.

12) Further, the suit is in its preliminary stage. The petitioner and respondent always have the option of proving their case at the time of evidence.

13) Moreover, granting the relief sought in the petition to the petitioner's at this early stage, when no decision has been made as to the above-mentioned issues, would cause great hardship and loss to the respondent. The petitioners/plaintiffs failed to prove his prima facie case. The petitioners/plaintiffs are not entitled to seek the main relief as interim relief in this petition. In these circumstances, the petitioners are not entitled to get any relief in this petition. Hence, this court is inclined to dismiss this petition.

14) **As a result**, this petition is dismissed without cost.

Dictated to the Typist, and typed by her, corrected and pronounced by me, in open court this, the 09th day of September, 2024.

I Additional District Munsif,
Nagercoil.

1) Petitioner side witnesses: Nil.

2) Petitioner side documents :

Ex.P1	25.09.2015	Sale deed standing in the name of petitioner (Xerox Copy)
Ex.P2	-----	Revenue Tax Receipt standing in the name of petitioner (original) and joined Patta, standing in the name of the petitioner and others. (Online copy)
Ex.P3	05.11.2021	Approved building plan (Xerox)

Ex.P4	09.02.2021	Udyam Registration Certificate standing in the name of petitioner (online copy)
Ex.P5	23.11.2020	House Tax receipt standing in the name of petitioner (original)
Ex.P6	31.10.2022	Copy of letter given by Oor President to president of Nalloor Panchayat (Xerox)
Ex.P7	06.11.2022	payment receipt (Xerox)
Ex.P8	16.03.2023	Notice issued by the 3rd defendant to the petitioner (original)
Ex.P9	27.03.2023	Office copy of Legal Notice
Ex.P10	27.03.2023	Postal Receipt Nos. 6(Original)
Ex.P11		Postal Acknowledgement Card No. 6 (Original)

3) Respondents side witnesses : Nil.

4) Respondents side documents : Nil.

I Additional District Munsif,
Nagercoil.

*Draft/Fair Order in
I.A.No.3/2023
O.S.No.88/2023
Date: 09.09.2024
I ADM, Nagercoil.*