

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.**Present :** Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munisf, Vadipatti

Dated 05th day of March 2025**IA. No.03 / 2024****In****O.S. No.2 /2024**

1. A.P. Vimal
W/o. A. Pitchai Naidu
2. Suresh,
S/o. Late. Pitchai Naidu
3. Suthadevi,
D/o. Late. Pitchai Naidu
4. Prakash,
S/o. Late. Pitchai Naidu
5. Sarmila,
D/o. Late. Pitchai Naidu

---- *Petitioners / Plaintiffs****//Versus//***

1. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Elis Nagar, Madurai District.
2. The District Collector,
Madurai District.
3. The District Revenue Officer,
Madurai District.
4. The Tahsildar,
Vadipatti, Kallanai Village,
Madurai District.

---- Respondents / Defendants

This petition was filed before this Court on 12.08.2024 coming before me for final hearing on 05.03.2025, Advocate Tmt. M. Rajeswari appeared for Petitioners / Plaintiffs and Learned Government Pleader appeared for the Respondents. Upon hearing the arguments advanced by both the sides' counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. The petitioner had filed this petition under Order XXXIX Rule 1 & 2 of CPC to grant temporary injunction restraining the respondents, their men, agents or any other person acting under them from in any manner interfering with petitioner's peaceful possession and enjoyment of the petition property pending disposal of the suit.

2. GIST OF THE PETITION:

The petitioners were the plaintiffs in the main suit. The main suit was filed for declaration and permanent injunction. The relevant portion in petition averments was that, the petition property of 76 cents in survey no.228, Kallanai village was purchased by the 1st petitioner's husband namely Pitchai Naidu on 13.07.1989 and on 21.06.1991. The said Pitchai Naidu passed away, hence the petition property by inheritance passed on to the petitioners. Being so, on 06.02.2022, the 3rd respondent issued enquiry notice by stating the petition property belong to the temple. The petitioner appeared for enquiry and produced relevant documents. After enquiry the 3rd respondent wrongly passed order stating the petition property belong to temple. The petitioner contend as the petition property only belong to private persons but not belong to chatram or temple. Then the petitioner had filed this suit. During the pendency of the suit, the respondents entered into the petition property for survey and laid stones in name of 'HRCE'. The respondents claim title by UDR patta but the petitioners vendors had proper title prior to 1950. The petition property was agricultural land, in that the respondents had disturbed the petitioner's possession and enjoyment. Hence the petitioner had filed this petition for temporary injunction.

3. GIST OF THE COUNTER: (the respondents adopted their written statement as counter)

In the counter, the respondents denied the entire facts in the petition. The respondents had denied the petitioners title in the petition property and contended that the petition property belong to Ramasamy Ayyar Annadhana Chatram that was under the control of HR&CE department. The petition property was inam land and hence the petitioner or the previous vendors did not had any right over the property. Previously the settlement tasildar issued patta in the name of above said chatram on 07.03.1968. During UDR survey patta was wrongly issued in the name of other persons. In such circumstance, the HR&CE Inspector, Solavandan requested the 3rd respondent to conduct enquiry, accordingly enquiry was conducted and order was passed to issue patta in the name of the chatram. Hence the petitioner or any other person cannot claim any right over the petition property. The petitioner filed this petition without any right, the petition property was inam land, hence the respondents prayed to dismiss the petition along with cost.

4. THE POINT FOR CONSIDERATION IS THAT: Whether the petition is liable to be allowed or not?

- i. Heard both sides and records perused. The petitioner had filed the main suit seeking declaration and injunction. This petition was filed for temporary injunction to restrain the respondents and their men from disturbing the plaintiff's enjoyment in petition property. The case of the petitioner was that, the petitioner was the owner of the petition property and the respondents disturbed the petitioner's enjoyment by conducting survey and laying stones. The respondents deny the petitioner's title and state that the petition property was inam land and it belong to Ramasamy Ayyar Annadhana Chatram that was under the control of HR&CE department.
- ii. Both the parties did not file any documents in this proceeding.

iii. Regarding the relief of temporary injunction our Hon'ble High Court in **Ms. Archana Bansal vs. NEPC India Limited and Another, (2007) 6 MLJ 648** has held that,

"12. Grant or refusal of temporary injunction is subject to the following principles:

(a) Prima facie case of plaintiffs legal right

(b) Balance of convenience in his favour

(c) Whether he would suffer irreparable injury if injunction is not granted.

These conditions have to be satisfied and proof of any of them is not by itself sufficient to obtain a temporary injunction. Prima facie case means that there exists a strong probability that the petitioner has an ultimate chance of success in the Suit. Balance of convenience is the principle by which the Court weighs and balance the mischief or inconvenience to either side. Irreparable injury means a substantial injury which cannot be adequately compensated for in damages."

Thus as directed by our Hon'ble High Court, to obtain the relief of temporary injunction, the petitioner must prove all the above mentioned principles, that he has prima facie case, balance of inconvenience and not granting temporary injunction would result him irreparable loss and injury.

iv. As this petition is for temporary injunction, the legal right of the petitioner in the petition property, needs to be proved. To prove the legal right, no document has been adduced by the petitioner with the petition. Whereas the petitioner had filed affidavit stating that the petitioner hold the title and possession of the petition property. But the respondents deny the above contention of the petitioner and stated that petition property was inam land and it do not belong to the petitioner. The petitioner plead the property in dispute was agricultural land. As the respondents deny the possession and title of the petitioner, the legal right can only be proved by letting in evidence. But as no documents was filed by the petitioner in this proceeding regarding legal right, the petitioners averments remains unproved. In such case without any evidence, this court concludes that the petitioner did not show that prima facie case exist for granting temporary injunction.

v. The petitioner has not let in evidence to substantiate the petition pleadings, to show that balance of inconvenience exist. Thus in such circumstance this court cannot find any balance of inconvenience in favour of the petitioner/plaintiff. Similarly, the petitioner has neither plead nor let in any piece of evidence to show that if the injunction is not granted, it would cause irreparable loss to the petitioner. Thus, applying the above referred dictum in the case on hand and from the foregoing discussions, it can be seen that the petitioner had not established prima facie case, balance of inconvenience and irreparable loss. Hence, injunction would not be granted.

5. In the result, this petition is dismissed. No costs.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *the 05th day of March 2025.*

District Munsif,
Vadipatti.

Petitioner side witness and documents: Nil

Respondents side witness and documents : Nil

District Munsif,
Vadipatti.

Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.03/2024

In

O.S. No.2/2024

Date : 05.03.2025