



Fair Order / ~~Draft Order~~

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 04th day of November 2025

CNR No. TNMD190000372025

IA. No.2/2025

In

O.S. No.40/2025

1. S. Thendralpandiyan,
S/o. Surulimohan

---- Petitioner / Plaintiff

//Versus//

1. A. Perumal,
S/o. Alagar
2. N. Kannan,
S/o. Nadukattan
3. Ariyamalai,
S/o. Chinna Alagan

---- Respondents / Defendants

This petition was filed before this Court on 06.03.2025 coming before me for final hearing on 04.11.2025, Advocate Thiru. P. Periyarvendhan appeared for the Petitioner / Plaintiff. Advocate Thiru. A. Jeyaramachandran appeared for R1 and Advocate Thiru. M. Vellaichamy appeared for R2 and R3. Upon hearing the arguments advanced by both the sides' counsels and upon perusing the available material records, today this Court has delivered the following....



Fair Order / ~~Draft Order~~

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 enjoyment in the petition property, pending disposal of the suit.

Petitioner averments in brief:

i. The petitioner, who was the plaintiff in the main suit, sought for permanent injunction. The petitioner's case was that the suit properties had originally belonged to his grandmother, Seeniammal and she was in possession of the properties by patta, later partitioned the properties among the petitioner and her other legal heirs. From then the petitioner and the other legal heirs of the said Seeniammal had been in possession and enjoyment of their respective shares.

ii. Due to the age fact, the other legal heirs of the said Seeniammal had executed a general power of attorney in favour of the petitioner authorizing him to conduct litigation on their behalf with regard to their respective shares. The respondents being adjacent landowners, had unlawfully claimed title to the petition properties and attempted to erect a barbed wire fence, disturbing the petitioner's possession. Despite informing the police, as it was a civil matter the petitioner was advised to seek a remedy from the court. Consequently, Hence the petitioner filed the main suit and this application was filed seeking temporary injunction against the respondents.

Counter averments in brief: (Written statements of D1 to D3 adopted as Counter for R1 to R3)

i. The 1st respondent denied the petition's averments, asserting that the petitioner and his family had no valid title or possession over the property, rendering the power document



Fair Order / ~~Draft Order~~

in the petitioner's favor was baseless and invalid. No disturbance was alleged to have been made by the respondents to the petitioner.

ii. The 1st respondent claimed to be in possession of Survey No. 114/2, having cultivated trees thereon after his retirement from military service, and had paid taxes on the land, as evidenced by the Chitta extract. Further the 1st respondent had applied for a patta for the land in Survey No. 114/2, but was refused by the revenue authorities. Subsequently, a writ petition was filed before the Hon'ble High Court in W.P. (MD) No. 4026 of 2013, seeking a direction to issue a patta. The writ petition was disposed with direction to make representation before the Tahsildar but the tahsildar did not consider the representation made by the petitioner.

iii. Thus the 1st respondent had filed a petition before the DRO, Madurai, which was disposed in pursuance to the order of the Hon'ble High Court in W.P. (MD) No. 21268 of 2016. The DRO, Madurai had rejected the claims of both the 1st respondent and the rival claimant, Tamilselvi (one of the legal heirs of the deceased Seeniammal, who had executed a power deed in favor of the petitioner). Aggrieved by the order of the DRO, Madurai dated 23.03.2016, the 1st respondent preferred another writ petition before the Hon'ble High Court in WP. (MD.) No.476 of 2018, which was pending for adjudication. In this scenario, the petitioner had filed the present petition, allegedly suppressing material facts and claiming title to the petition properties illegally.

iv. The 2nd and 3rd respondents denied the petition's averments, contending that the properties in question were belong to the government. Since no patta had been issued for the properties, the petitioner's claim that his grandmother was previously in the possession of the property with patta in her name was unreliable. The respondents were in possession of the properties by cultivating crops. Further the respondents had applied for a patta in the 3rd respondent's name after the property's nature was incorrectly mutated in the revenue records. However, the petitioner's father, Surulimohan, allegedly attempted to grab the property through illegal means. Under these circumstances, the respondents argued that



Fair Order / ~~Draft Order~~

there was no cause of action for the suit and the petition was filed solely to delay the suit proceedings. Therefore, the petition was liable to be dismissed."

4. The petitioner to prove his case had filed 4 documents and marked them as Ex.P.1 to 4.
4. The 1st respondent to prove his case had filed 2 documents, marked them as Ex.R.1 and 2.
2. The 2, 3 respondent to prove their case had marked 3 documents as Ex.R.3 to R.5.

5. **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 the relief of permanent injunction. This petition was filed for temporary injunction to restrain the respondents / defendants and their men from disturbing the plaintiff's peaceful enjoyment in petition property till disposal of main suit.

ii. The crux of the petition was that the petitioner was in possession of his share in the petition properties, which had been partitioned, and was also authorized through a power of attorney to conduct litigation on behalf of the other legal heirs of his grandmother regarding their shares. But the respondents, without any legitimate claim or right over the properties, allegedly attempted to erect a wire fence in the petition property by unlawful means. On the other hand, the 1st respondent denies the petitioner's claim and claims his own possession and title to Survey No. 114/2, supported by evidence (Chitta extract). Further the learned counsel for 2 and 3 respondents advanced his argument as, that the properties belong to the government and that they are in possession of the properties.



Fair Order / ~~Draft Order~~

iii. The petitioner to prove his case had filed 4 documents and marked the documents as Ex.P.1 to 4. The 1st respondent to prove his case had filed 2 documents and marked them as Ex.R.1 and 2. The 2, 3 respondent to prove their case had filed 3 documents and marked the documents as Ex.R.3 to R.5.

(a) Petitioner's Documents:-

Ex.P.1 (Patta No. 339): Shows the petitioner's grandmother was in possession of certain survey numbers.

Ex.P.2 (Property Tax Receipt): Shows petitioner has paid property tax.

Ex.P.3 (Tahsildar's Order): shows the order rejecting the 1st respondent's claim and directed Tamilselvi to petition DRO for mutation with regard to survey no.114/2.

Ex.P.4 (Photographs): Shows the properties in question.

(b) Respondent's Documents:-

Ex.R.1 (Kist receipt) supports the 1st respondent's claim, indicating they have been paying tax for the land.

Ex.R.2 (Diary): Shows pending WP. (MD) 476/2018.

Ex.R.3 (Patta No. 339): Shows Govindan's possession of a different survey number.

Ex.R.4 (FMB Extract): Shows survey details with regard to the patta no.339 in the name of petitioner's grandmother.

Ex.R.5 (PIO's Order): Shows properties claimed by petitioner were wasteland.

iv. 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.



Fair Order / ~~Draft Order~~

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 had prima facie case, balance of inconvenience and not granting temporary injunction would result them irreparable loss and injury.

v. As this petition is for temporary injunction, the prima facie case of petitioners' legal right needs to be proved. The petitioner had pleaded as the petition properties were in possession of his family. But the 1st respondent deny the entire petitioner contentions and plead that the petitioner claiming the title of the petition property by an invalid patta in his grandmother's name. As the 1st respondent had denied the right of the petitioner in the petition properties, it is the duty of the petitioner to prove the same. Thereby, the petitioner had filed 4 documents to substantiate his case. The petitioner's documents Ex.P.2 to 4 were not documents of possession in petitioners name, hence they are insufficient to prove his possession in the petition properties. Further Ex.P.1 Patta in the name of petitioner's grandmother was disputed by the respondents as false document and the respondent further objected as no current document to prove petitioner's possession was filed in this proceeding. On the other hand, the documents filed by the 1st respondent did not support his claim but the petitioner had filed Ex.P.3 - Tahsildar's Order, that shows Tamilselvi's possession in Survey No. 114/2, contradicting the 1st respondent's claim. The documents filed by the respondents 2 and 3 (Ex.R.5) indicate that the properties claimed by the petitioners were specified as government wasteland. Ex.R.3 shows the patta number mentioned in Ex.P.1 was in name of a different person and issued for a different survey



Fair Order / ~~Draft Order~~

number. It directly impact the petitioner's claim to possession by Ex.P.1 - patta. Ex.R.4 (FMB Extract): shows the subdivided land in Survey No. 111/2, further detailing the land's survey particulars. Ex.R.5 (PIO's Order with 'A' register) indicates the properties in Patta No. 339 was specified as government wasteland. From the appreciation of both side pleadings, this court can observe that, by relying on Ex.P.1 - patta the petitioners cannot be proved as the actual possession of the petition properties was disputed and it can only be determined through trial. Thus the petitioner's case shall be adjudicated only through evidence in the main suit. This petition was filed for temporary injunction and the main suit was filed for permanent injunction, in this circumstance, this court cannot conduct roving inquiry regarding the issue of possession in this stage. The petitioner / plaintiff can only prove his case by letting in evidence in the main suit.

vi. From perusal of the above documents it is found by this court that, the petitioner did not prove his prima facie right in the petition properties. In such circumstance, this court can not find balance of inconvenience and irreparable loss to the petitioner. Thus, applying the above dictum in the case on hand and from the foregoing discussions, it can be seen that the petitioner has not established the prima facie case, balance of inconvenience and irreparable loss exist in his favour. To obtain the relief of temporary injunction, the petitioner must prove the principles laid down by our Hon'ble High Court, in this petition the petitioner had not proved the presence of prima facie case, balance of inconvenience and not granting temporary injunction would result irreparable loss and injury. Hence, temporary injunction would be not be granted against the respondent till disposal of the main suit.

6. **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 04th day of November 2025.

District Munsif,
Vadipatti.



Fair Order / ~~Draft Order~~

Petitioner side evidence: Nil

Petitioner side documents:

Ex.P.1	Patta No.339 in the name of Seeniammal
Ex.P.2	Property tax receipt in the name of petitioner
Ex.P.3	Order of tahsildar dated 05.01.2015
Ex.P.4	Photographs of the petition properties

1 to 3 Respondents side evidence : Nil

1 to 3 Respondents side documents :

Ex.R.1	Kist receipt in the name of the 1 st respondent
Ex.R.2	Diary of WP. (MD.) 476 of 2018
Ex.R.3	Patta No.339 in the name of Govindan
Ex.R.4	FMB extract
Ex.R.5	Information with 'A' register issued by the PIO, Madurai

District Munsif,
Vadipatti.



Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.02/2025

In

O.S. No.40/2025

Date : 04.11.2025