

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

District Munisf, Vadipatti

Dated 04th day of October 2024**IA. No.03 / 2024****In****O.S. No.30 / 2023**

R. Kathirvel,

S/o. Raj,

---- Petitioner / Plaintiff**//Versus//**

1. State of Tamil Nadu,
Rep. through the President,
Kadupatti Panchayat, Vadipatti.
2. State of Tamil Nadu,
Rep. through the District Development Officer,
Vadipatti.
3. State of Tamil Nadu,
Rep. through the Tahsildar,
Vadipatti.
4. State of Tamil Nadu,
Rep. through the District Collector,
Madurai.

---- Respondents / Defendants

This petition was filed before this Court on 21.03.2024 coming before me for final hearing on 04.10.2024, Advocate Thiru. R. Rajkumar appeared for Petitioner / Plaintiff, Learned Government Pleader appeared for the Respondents / Defendants. Upon hearing

arguments advanced by both the sides' and upon perusing the available material records, today this Court has delivered the following....

ORDER

The petitioner had filed this petition under Order XXXIX Rule 1 & 2 of C.P.C. 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 relevant portion of the petition in brief, the petitioner herein was the plaintiff in the main suit. The main suit was filed for permanent injunction. The petitioner's contention was that the petitioner had already obtained temporary injunction order against the respondents in I.A. No. 2 of 2023. But the respondents trespassed into the petition property, razed down the bathroom and toilet rooms in the petition property and built panchayath building in the petitioners land. The petitioner was also trying to open the panchayath building for usage. Hence, the petitioner filed this suit for temporary injunction directing the respondents not to open the panchayath building.

3. GIST OF THE COUNTER:

In the counter, the respondents denied the entire petition facts and contended that the petition property mentioned in I.A. No. 2 of 2023 was different from the panchayath building location. The respondents had removed only the encroachments in the government wasteland but they did not disturbed the petitioner's property. 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. Records perused. The petitioner had filed the main suit seeking for the relief of permanent injunction. This petition is filed for temporary injunction to restrain the respondents and their men from opening and utilizing the panchayath building that was built in the petitioners property. The case of the petitioner is that the petition schedule mentioned property belong to him and thereby he was in possession of the property, the petitioner also obtained temporary injunction order in I.A. No. 2 of 2023 but the respondents unlawfully built a panchayath building in the petition property. On the other hand, the respondents deny the petition facts by contending that the petitioners land was not disturbed and the panchayath building was not built in the petitioners property.

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 prima facie case needs to be proved. To prove the prima facie case the petitioner had pleaded that the petition property belong to him, the petitioner had also obtained temporary injunction in support of his property but the respondents razed the building in the petition property had built a panchayath building. On the other hand, the respondents denied the petitioners contention and had pleaded that the panchayath building was not built in the petitioners land. The respondents had only pleaded that panchayath building was built in a different place but no survey number or extent for the building was mentioned. Hence on perusal of entire petitioner side materials, this court is of the view that prima facie case exist, in favour of the petitioner.

v. Further it is the duty of the petitioner to prove the balance of inconvenience. As already mentioned, the petitioner had pleaded that if the respondents were permitted to utilize the petition property than the object of main case shall be defeated, hence it is clear that balance of inconvenience exist. Similarly, the petitioner has also pleaded that if the injunction is not granted, it would cause irreparable loss to the petitioner. In this proceeding the petitioner had already obtained ad-interim injunction, in his favour. Thus, applying the above dictum in the case on hand and from the foregoing discussions, it can be seen that the petitioner had

established the balance of inconvenience and irreparable loss. Hence this court is inclined to grant temporary injunction till the disposal of main suit.

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

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *04th day of October 2024*.

District Munsif,
Vadipatti.

Petitioner side witness and documents: Nil

Petitioner side documents:

1.	IA No.03/24 petition and affidavit
2.	Order passed in IA No.03/24, dated 22.03.2024

Respondents side witness and documents: Nil

District Munsif,
Vadipatti.

Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

I.A. No.03/2024

In

O.S. No.30/2023

Date : 04.10.2024