



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 02nd day of December 2025

CNR No. TNMD190000442025

IA. No.2/2025

In

O.S. No.45/2025

1. C. Kesavan,
S/o. Late. Chokkappareddiyar

---- Petitioner / Plaintiff

//Versus//

1. R. Alagarkumar

---- Respondent / Defendant

This petition was filed before this Court on 19.03.2025 coming before me for final hearing on 02.12.2025, Advocate M. Sadaimuni appeared for the Petitioner / Plaintiff. Advocate Thiru. V. Muthuramalingam appeared for the Respondent / Defendant. 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 respondent, his men, agents or any other person acting under him from worshipping the temple in the petition property, pending disposal of the suit.



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2. **Petitioners averments in brief:**

- i. The relevant portion of the petition in brief was that the petitioner was the plaintiff in the main suit was filed for permanent injunction. Further the schedule of property absolutely belong to the petitioner and patta was also issued. Thereby the petitioner was in possession of the petition properties by running business and worshipping the deity in the Kamatchi Amman Temple that was located in the eastern side of the petition property.
- ii. In such scenario, on 05.03.2025 the respondent being adjacent land owner unlawfully entered into the petition property and attempted to grab the petition property by obstructing the worship being held in the temple in the petition property, it was prevented by the petitioner. As the disturbance was continuously made by the respondent, the aggrieved petitioner / plaintiff filed the suit and this present petition was filed seeking a temporary injunction against the respondent.

3. **Counter averments in brief: (Written statement adopted as counter)**

The respondent in his counter had denied all the averments of the petition and contended that the petition properties in dispute were absolutely belong to the Kamatchi Amman Temple and were under the care of the respondent and his relatives. However, the petitioner without any legal right over the suit properties, unlawfully claimed the possession of the properties and encroached the petition properties illegally through his shops to run his business. Further no document was adduced by the petitioner to prove his claim. Thus there was no cause action to file this suit and this present petition was filed by suppressing material facts only to delay the suit proceedings, which is liable to be dismissed.

4. The petitioner during his argument had relied upon 6 documents. The respondent did not let in any evidence in this proceedings.



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

i. Heard both sides. The entire materials on records were perused. The petitioner had filed the main suit seeking the relief of permanent injunction. This petition was filed for temporary injunction to restrain the respondent / defendant and his men from disturbing the plaintiff peaceful enjoyment in petition properties till disposal of main suit. The case of the petitioner was that the petitioner is in possession of the petition properties by patta but the respondent allegedly claiming the title of the petition properties and made disturbance to the petitioner from worshipping the deity in the petition temple. On the other hand, the respondents denied the petitioner's contention, asserting that the respondents did not disturb the possession of the petitioner and the property claimed by the petitioners was the temple property, it was illegally acquired by the petitioner to run his business. Thereby this present suit claiming the title over the petition properties without any legal right to the properties by suppressing material fact. Thus the relief sought by the petitioner was unreliable. Thereby the petitioner without any rights to the petition properties had filed this petition, only to delay the suit proceedings.

ii. The petitioner had relied on 6 documents in support of his claim; 1) Patta No.1702, 2) Property tax receipts, 3) Electricity receipts, 4) Water tax receipts, 5) Photographs shows the petition property, 6) Aadhar card of the petitioner. The respondent did not let in any documents in this proceedings.

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



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

iv. As this petition is for temporary injunction, the prima facie case of petitioner's legal right needs to be proved. The petitioner had pleaded as the petition properties were in possession of the petitioner and the respondent and his men were disturbed the possession of the petitioner in the shops running by the petitioner in the petition properties by illegal means. But the respondent deny the entire petitioner's contention and plead that the petitioner without any legal rights to the petition properties unlawfully claiming the title of the property by alleged patta without any proper sale deed and further no disturbance was made to the petitioner. As the respondents had denied the right of the petitioner in the petition properties, the burden is upon the petitioner to prove the same. Thereby, the petitioner defend the petition claim by relying 6 documents. On careful appreciation of the above documents, document no.1 - patta no.1702 and the other tax receipts shows that the petitioner was in possession of the petition property. Hence this court finds the petitioner prove his present possession in the petition property.



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v. Though the petitioner had prove the prima facie right exist in the petition properties in his favour by patta, no evidence was adduced by the petitioner to show the disturbance of the respondent in the petition property. In such circumstance, this court can not find balance of inconvenience and irreparable loss to the petitioners. Thus, applying the above dictum in the case on hand and from the foregoing discussions, it can be seen that though the petitioner has established prima facie case in his favour but did not establish the balance of inconvenience and irreparable loss exist in his favour. To obtain the relief of temporary injunction, the petitioner must prove all the principles laid down by our Hon'ble High Court, in this petition the petitioner had not proved the presence of 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 2nd day of December 2025.

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Vadipatti.

Petitioners witness : Nil

Petitioners side documents:

1.	Patta No.1702
2.	Property tax receipts
3.	Electricity receipts
4.	Water tax receipts
5.	Photographs shows the petition property
6.	Aadhar card of the petitioner

Respondent side witness and documents: Nil



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