

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

Present: Tmt. S. Vengadalakshmi M.L.,
District Munsif.(FAC)
T. Vadipatti

Date: 03.08.2023

...

I.A.No. 01/2023

And

IA.No. 02/2023

in

O.S.No.66/2023

1. Periyakaruppan
2. P. Balakrishnan : Petitioners/Plaintiffs

//Versus//

1. A.R. Vignesh
2. Muthulakshmi
3. Vaishnavi : Respondents/ Defendants

This IA.No. 01/2023 petition is filed before this court and it was taken on 10.07.2023 and the IA.No. 02/2023 petition is filed before this court and it was taken on 31.07.2023 and Advocate Thiru.P. Chandramohan appeared for the Petitioners/Plaintiffs and the Advocate N. Srinivasan appeared for the Respondents/defendants and this petition came before me for final hearing on 02.08.2023, Upon hearing the arguments advanced on both sides, upon perusing the available material records and having stood over for consideration till this day, today this court delivered the following...

COMMON ORDER

1. This I.A.No. 1/23 is filed under Order XXXIX Rule 1&2 of CPC for the relief of temporary injunction as against the respondents restraining them from interfering in the peaceful possession and enjoyment of the petition mentioned property.

2. I.A.No. 2/23 is filed under section 151 of CPC for the purpose of receiving additional documents on the side of the petitioners.
3. As both applications are found interlinked, this court has find it is necessarily be decided together. Hence taken up together for orders.
4. **Brief case of the petitioner** : The petitioners are the plaintiffs in the suit filed for the relief of permanent injunction not to evict the petitioners except due process of law and present petition is filed for the relief of temporary injunction. The case property is originally belonged to one Arumugam and after his demise his legal heirs wife, son and daughter who are the Respondents/defendants are disturbing in the peaceful possession and enjoyment of the petition mentioned property by this petitioners as agreed by them with the deceased Arumugam. The petitioners are doing cultivation in the petition mentioned property and raised coconut trees. The petitioner has also spent about 4 lakhs and odd for the renovation of Well situated in the property. Even after the demise of Arumugam, his son who is the 1st respondent has agreed to the petitioner to continue the cultivation in the property. on that belief only the petitioner has spent much more money and contribution in bearing the plants and trees and as per terms the petitioner is paying the 1/3 income to the respondent, but suddenly the respondents has made illegal attempt to expel the petitioners from the property hence the present petition.
5. The I.A.2/23 is filed for the permission to file additional 3 documents which are not filed at that time of presentation of plaint.
6. **Brief case of the Respondent**: The respondents are the real owner of the property. The brother of the plaintiff namely one Rajesh has filed a suit before 3rd subordinate judge vide O.S.No 803/2015 as he is in possession of the property and when the present respondents has obtained the order for speedy disposal from the Hon'ble high court , that suit was disposed on 22.07.2022 by settlement of Rs. 5 lakhs received from this respondents. This present suit is

filed with false information as the property is in the enjoyment of the petitioners ever since 2014. The petitioner is relying on the Adangal document which was obtained illegally. The petitioners has illegally entered into the property and caused damages to the trees and also stolen the motor pump. Hence the present petition is liable to be dismissed.

7. Point to be decided is

1. Whether the additional documents on the side of the petitioners shall be permitted or not ?
2. Whether the petitioners are entitled to get the relief of the temporary injunction or not?

8. Heard both side counsels and considered relevant materials. The documents 1 to 8 filed along with the plaint are marked as Ex. P1 to P8. additional three documents are tentatively marked as Ex.P9 to P11. on the side of Respondents Ex. R1 to R7 were Marked.

9. Firstly to be decided on the point of additional documents, these documents were produced by the petitioners during the enquiry, copy of CSR, Photographs and another copy of police complaint dated 31.07.2023.

10. The counsel for the respondents would seriously objected the present document and this court is of the view the Documents in the enquiry of the interim applications are marked through consent. But not by way of examination of witnesses in general. Still in consideration of these three documents, this court is agreed with the point of the counsel for the Respondent that the photographs found filed shall not be co-related with the petition mentioned property as claimed by the petitioners as no such indication is available in the photographs. Hence this court finds that the photographs need not be taken into consideration. As far as other two documents are concerned the CSR copy and the police complaint copy need not be rejected on any objection of the

respondent side as nothing found reasonable. Hence I.A.2/23 is partly allowed accordingly.

11. As Far as the point of temporary injunction is concerned it is the case of the petitioners is that the property is in the possession and enjoyment of the petitioners and the same shall not be disturbed without due process. The property is found to be fertile land. The petitioners has filed documents vide one agreement entered by the 1st petitioner for the purpose of erecting well. Receipts of the materials purchased for the erection of bore well. Third document is batch of kist receipts. copy of two more tax receipts, copy of adangal for two years and copy of adangal for the fasili 1431. copy of adangal for the fasili 1432. and Patta stands in the name of Arumugam.
12. on the other hand the respondent side relied on Seven documents as follows
plaint filed before 3rd Subordinate Court at Madurai vide OS.No.803/2015, order passed by Hon'ble Madurai Bench of Madras High court in CRP (MD)No.884/2021 E-court entry dated 22.10.2022 in the OS.No.803/2015 copy of sale deed stands in the name of Arumugam. Photograph, Patta, adangal and tax receipt in the name of 1st Respondent, Patta, adangal and tax receipt in the name of 1 to 3 Respondents.
13. The counsel for the petitioners would submit that the respondents are illegally attempting to evict them by using police force. hence prayed for the injunction order as to protect the trees cultivated by the petitioners.
14. The counsel for the respondents seriously objected that the respondents are the original owners and the petitioners are fraudulently obtained the adangal and this court also granted ad-interim injunction to the petitioners based on that. hence the petitioners has illegally entered into the property and caused damages to the trees which results in loss to the respondents and also added that the brother of the petitioners, one Rajesh has already filed one false suit and later settled with this respondents by receiving Rs.5 lakhs from the

respondents and now this petitioners again making troubles to the respondents. Hence prayed for the dismissal of raising serious objection.

15. upon perusal and consideration of the Case records it is found that the case property is punja land and the petitioners are relaying on the point that the property belonged to one Arumugam and the same was cultivated by the petitioners on agreed terms and the same was even continued with the 1st respondent but now illegally attempting to evict the petitioners by the support of police.
16. Original suit is filed on 10.7.2023. Plaint documents are to the extent to show the ownership of Arumugam vide patta is marked as Ex.P.8 downloaded from online portal on 13.6.2023. Ex.P.9 CSR issued by the police for the complaint lodged as against the Respondents. Petitioners filed tax receipts for various periods vide Ex.P.3, Adangal kannakku for the years 1431, 1432 are stands in the name of petitioner is found satisfied this court for believing the case of the petitioners that they are cultivating in the petition mentioned property.
17. On the contrary the respondents are claiming that the possession is not with the petitioner and it is with the respondents only. for which the respondents side relied on the Ex.R.6 &7 which are Patta, adangal and tax receipt in the name of 1st Respondent, Patta, adangal and tax receipt in the name of 1 to 3 respondents found obtained only on 07.07.2023 and 14.07.2023 and the tax receipts were obtained on 17.07.2023 and found filed before this court on 19.07.2023.
18. The allegation of filing false case and referring a OS 803/2015 before subordinate court is found a defense made by the respondent with ambiguity. The relationship between the present plaintiffs with the earlier suit plaintiff has not been established and moreover payment of 5 lakhs to that Rajesh for settlement has raised serious suspicious as there is some right do exists for the Periyakaruppan who is the first petitioner herein. Without any reasons no one will through 5 lakhs to any third party.

19. The photo filed by the respondent has also could not be taken into consideration as there is no document provided under section 65 B of Indian Evidence Act to the support of the photo. Like wise no correlation identity could be find in the photo produced by respondents side as well to ensure that photo is connected to petition mentioned property only.
20. Adangal and tax receipt filed by the respondents are found created after the filing of this suit. But on the contrary petitioners side has filed tax receipts for various periods, that found reliable in support of the adangal.
21. As the main suit is for due process of law injunction the denial of this present petition relief would cause the main suit itself infructuous. Hence the irreparable loss for petitioners could be inferred. Prima facie case against the Respondent is apparent from the Ex.P9 CSR and P11 police complaint. Hence balance of convenience also found stands in the side of the petitioners. Hence, it is necessary to grant temporary injunction restraining the respondents from interfering into the peaceful possession and enjoyment of the petitioners.
22. Accordingly IA.No.1 /23 is allowed and I.A.No.2/23 is partly allowed except Ex.P.10.

Dictated to the Steno Typist typed by her directly on the computer, corrected and pronounced by me in the open court this the 03rd day of August 2023.

(Sd. S. Vengadalakshmi)

District Munsif(FAC)

Vadipatti.

1) Petitioner side documents:

- Ex.P1 Agreement Deed of R. Periyakaruppan vs. A. Mani dated 01.05.2014- Original
- Ex.P2 Cash bills in favour of Periyakaruppan (2 Nos)- Original
- Ex.P3 Kist receipts in the name the Arumugam – Original (4 Nos)
- Ex.P4 Kist receipts – Xerox (2 Nos)

- Ex.P5 Adangal - Xerox
Ex.P6 Adangal - Xerox
Ex.P7 Adangal dated 15.06.2023 - Original
Ex.P8 Patta No. 1421 stands in the name of Arumugam - Original
Ex.P9 CSR No. 345/2023 of Sholavandan Police Station -Xerox
EX.P10 Photo
Ex.P11 Police Complaint

2) Respondents side documents:

- Ex.R1 Complaint copy of O.S. No. 803/2015 of Sub court Madurai
Ex.R2 Order copy of CRP(MD) No. 884/2021 of Madurai Bench of Madras High Court dated 11.06.2021
Ex.R3 E – Courts status report in OS.No. 803/2015 on 13.06.2023.
Ex.R4 Sale deed in favour of Arumugam dated 21.06.2007
Ex.R5 Photo copy for Complaint schedule property
Ex.R6 Kist Receipt,Patta and Adangal in the name of Minor Vignesh
Ex.R7 Kist Receipt,Patta and Adangal in the name of Muthulakshmi and others.

(Sd. S. Vengadalakshmi)
District Munsif(FAC)
Vadipatti.

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