

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 30th day of January 2026

CNR No. TNMD190001022020

IA. No.491 / 2020

In

O.S. No.77 / 2020

1. K. Sureshkumar,
S/o. Katturaja

---- Petitioner / Plaintiff

//Versus//

1. K. Nagarajan,
S/o. Katturaja

---- Respondent / Defendant

This petition was filed before this Court on 03.09.2020 coming before me for final hearing on 30.01.2026, Advocate Thiru. P. Chandramohan appeared for the Petitioner / Plaintiff. Advocate Thiru. Sivakumar appeared for the Respondent. 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 in any manner interfering with petitioner's enjoyment in the petition property, pending disposal of the suit.

2. **Petition averments in brief:**

The petitioner was the plaintiff in the main suit. The main suit was filed for declaration and consequential permanent injunction. The petitioner's further contention was that, the respondent was the younger brother of the petitioner. Further the petition property and another property were purchased separately, by one Sanguvathi and her husband – the mother and father of petitioner and respondent. From then Sanguvathi and her husband were in possession and enjoyment of their properties. Later the said Sanguvathi executed a Settlement deed in favour of the petitioner on 26.11.2014 in respect of her property (petition property) and the father of the petitioner executed a Settlement deed in favour of the respondent in respect of his property. Since then the petitioner and respondent were in possession of their respective properties. Being so, the respondent subsequently encroached 100 sq. ft. in the petition property and attempted to put construction over the land by falsely claiming title. Thus the petitioners filed this suit for permanent injunction and filed this petition seeking temporary injunction against this respondent.

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

The respondent admitted the relationship of the petitioner and denied all the other averments of the petition. Further the respondents contended that the petitioner without leaving any space on any side of his property had constructed his house in the entire extent. Thereby he cannot claim right over the disputed extent out of the petition property and no proof was filed to show the encroachment made by the respondent in the petition property. Further the respondent did not made any disturbance to the petitioner. Thus there was no cause of action. Thus this petition was filed without any merit and is liable to be dismissed.

4. Both side parties did not file any documents in this proceedings.

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

i. Heard both sides. Records were perused. The petitioner had filed the main suit seeking the relief of declaration and consequential permanent injunction. This petition was filed for temporary injunction to prevent the respondent from encroaching the disputed property and disturbing the plaintiff peaceful enjoyment in the entire petition property till disposal of main suit.

ii. The case of the petitioner was that the petitioner was in possession of the petition property as it was settled to him by his mother prior to settlement of the property by the petitioner's father to the respondent. The respondent attempted to encroach one portion of property by illegal means. On the other hand, the respondent denied the petitioner's contention, asserting that the respondent did not disturb the possession of the petitioner and the extent of land in dispute was absolutely in possession of the respondent. In such circumstance, the petitioner filed this false petition by suppressing the material facts. Thus the relief sought by the petitioner was not proved. Thereby the petitioner without any rights to the petition property had filed this petition, only to delay the suit 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

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

iv. As this petition is filed for temporary injunction, the prima facie case of petitioner ought to be proved. The petitioner had pleaded as the disputed extent of land in petition property was in possession of the petitioner, which was possessed after inheritance of the properties belong to his mother. But the respondent deny the entire petitioner contention and pleaded that the petitioner raised his house by occupying the entire extent of his share and at present claimed to be in possession of the disputed extent of land owned by the respondent, in the petition property by unlawful means. As the respondent had denied the right of the petitioner in the petition property by claiming title and possession, the burden is upon the petitioner to prove the same. But no evidence was let in by the petitioner to substantiate his case. Hence this court can find that the petitioner did not let in any evidence to prove his present possession in the petition property in this proceeding.

v. further both parties claim title and possession of the petition property, thereby it can only be decided by letting in evidence in trial. The petitioner / plaintiff can only prove his case by presenting evidence in the main suit.

vi. Thus 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.

vii. 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.

Order dictated to the Stenographer and computerized, error checked and pronounced in the open court on 30th day of January 2026.

District Munsif,
Vadipatti.

Petitioner side witness and documents: Nil

Respondent side witness and documents: Nil

District Munsif,
Vadipatti.

Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

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In

O.S. No.77 / 2020

Date : 30.01.2026