



Fair Order / ~~Draft Order~~

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

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

District Munisf, Vadipatti

Dated this the 10th day of September 2025

CNR No. TNMD1900001122025

IA. No.02 / 2025

In

O.S. No.106/2025

Iyyavu,

S/o. Rasu

---- Petitioners / petitioner

//Versus//

1. The Village Administrative Officer,
Vadipatti.
2. The Tahsildar,
Vadipatti Taluk, Madurai District.
3. The Executive Officer,
Vadipatti Town Panchayat, Madurai District.
4. The District Collector,
Madurai District.

---- Respondents / Defendants

This petition was filed before this Court on 12.08.2025 coming before me for final hearing on 10.09.2025. Advocate Thiru. Alagarsamy appeared for the Petitioner / petitioner. Learned Government Pleader appeared for the Respondents / Defendants. 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 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. **Petitioner averments in brief:**

The relevant portion of the petition in brief was that the petitioner was the plaintiff in the main suit. The main suit was filed for permanent injunction. The petitioner's contention was that the petition property in S.No.364/2 belong to the petitioner's father one Rasu. The said Rasu was in possession of the petition property by making bricks in the petition property. Later the said Rasu died leaving the petitioner and his family members as his legal heirs. Thus the petitioner and his family members were in possession of the petition property after death of the said Rasu by constructing a house in the petition property and by obtaining patta in the name of the petitioner and his family members. Being so, the 1 to 3 respondents entered into the petition property and instructed this petitioner to vacate the property by stating the land to an extent of 15 ares in S.No.364/2 was government land, it was allotted to fire service department and they also tried to block the pathway to the petition property. But the petitioner prevented the 1 to 3 respondents from blocking the pathway to the petition property. Thus, the petitioner filed this suit and this petition was filed seeking temporary injunction.

3. **Counter averments in brief:** (Written Statement of Defendant adopted as counter)

In the counter the respondent denied all the averments in the petition and contended that initially entire land in Kulasekarankottai Village was in same survey number as S.No.364/2. But the petitioner claim the entire extent of land in S.No.364/1 and 364/72



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belong to their father and the petitioner also obtained patta for the said property. Whereas the patta for the land in S.No.364/46 was only issued to one Vanmathi, it was already subdivided from the S.No.364/2. But no evidence was let in by the petitioner to prove his possession for the land in S.No.364/2. Also 15 ares in S.No.364/72 was subdivided from S.No.364/1 and it was allotted to the Fire Service Department. But the petitioner filed a writ petition before the Hon'ble Madurai Bench of Madras High Court against this respondents seeking to leave pathway to the petitioners land in S.No.364/2 but the writ petition was dismissed on 12.08.2025. Being so, a land of 40 sq.m was ready to allot to the petitioner but he was trying to get patta for other 37 cents in government land. Thus there was no prima facie case and no cause of action was present to file the main suit. Therefore this petition filed only to delay the suit proceedings. Thus the petition is liable to be dismissed.

4. During the argument the petitioner relied upon 4 documents filed in main suit and the respondents filed 3 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 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 and their men from disturbing the petitioner's enjoyment in petition property till disposal of main suit. The case of the petitioner was that the petitioner and his family members are in possession of the petition property at present and the respondents were trying to dispossess the petitioner from the petition property and was trying to block the pathway to the property. On the other hand the respondents deny the petition by stating the petitioners did not try to disturb the possession of the petitioners' in the petition property but the petitioner was only illegally trying to get patta for a portion of the government land in S.No.364/1.



- ii. The petitioner had filed 4 documents in his side; among these documents,
- 1) Anubantha patta – shows the 40 sq.m. land in S.No.364/2 was allotted to the petitioner.
 - 2) Property tax receipt, 3) Electricity receipt – shows the receipts for a house was in the name of the petitioner, 4) Aadhar Card of the petitioner
- iii. The respondents had filed 3 documents on their side; among these documents,
- 1) Memorandum of the district collector – shows the property in S.No.364/1 was allotted to the Fire Service Department.
 - 2) Order in W.P.(MD) No.21855/2025 and W.M.P. (MD) No.16972/2025 dated 12.08.2025 – shows that the petitioner filed petition against the respondent claiming pathway to his property in S.No.364/2 was dismissed by the Hon'ble Madurai Bench of Madras High Court.
 - 3) FMB extract of S.No.364.
- 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 petitioners 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*



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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.

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 he was in possession of the petition property and the respondents being the Government servants had tried to evict the petitioner from the petition property by blocking the pathway to the petition property, also by alleging that the petition property belong to the government. The petitioner to prove his claim, had relied upon 4 documents in this proceeding to substantiate his pleadings. On perusal of the petitioners documents it is clear that the patta filed by the petitioner shows his possession for 1 cent of land in S.No.364/2. From the tax receipts filed, this court can find that the petitioner had built a house in the property and was in its possession. But the petitioner had not filed any documents to prove that the respondents disturbed the petitioners possession in the suit property. On the other hand, the respondent had denied the petitioners case in the petition property and filed 3 documents in support of their pleadings. The respondents have filed the memorandum of district collector dated 25.02.2022 and FMB. From these documents, it can be found that that the land in S.No.364/1 and 364/72 was alone allotted to the Fire Service Department and the suit property was only a neighboring property. Also from the order of Hon'ble High Court in W.P.(MD) No.21855/2025 and W.M.P. (MD) No.16972/2025 a similar relief was sought by the petitioner for different survey number before the Hon'ble High Court and it was dismissed. Thereby it is clear that the respondents did not propose to construct any building in the petition property and did not attempt to disturb the petitioners' possession in the petition property. Hence, the contention of the



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petitioner, that the respondents had attempted to disturb his possession remains unproved. In such scenario, this court is of the view that prima facie case does not exist in this petition.

vi. Further the petitioner had not pleaded and did not let in any evidence to substantiate his pleadings, to show that balance of inconvenience exist. Thus in such circumstance this court cannot find any balance of inconvenience in favour of the petitioner / petitioner. Similarly, the petitioner had not let in any piece of evidence to show that if the injunction is not granted, it would cause 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 the petitioner had not established to prove 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, but the petitioner has not proved the presence of prima facie case, balance of inconvenience and not granting temporary injunction would result irreparable loss and injury. Hence, injunction would not be granted.

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 10th day of September 2025.

District Munsif,
Vadipatti.

Petitioner side evidence : Nil

Petitioner side documents :

1.	Anubantha Patta in the name of the petitioner
2.	Property tax in the name of the petitioner
3.	Electricity receipt in the name of the petitioner



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4.	Aadhar Card of the petitioner
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Respondents side evidence : Nil

Respondents side documents:

1.	Memorandum of the District Collector dated 25.02.2022
2.	Order passed in W.P. (MD) No.21855/2025 and W.M.P (MD) No.16972/2025 by the Hon'ble Madurai Bench of Madras High Court dated 12.08.2025
3.	FMB extract of S.No.364

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DISTRICT MUNSIF COURT

Vadipatti

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IA. No.2/2025

In

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Date : 10.09.2025