

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

District Munisf, Vadipatti

Dated 24th day of September 2024**IA. No.02 / 2023****In****O.S. No.83 / 2023**

C. Ravichandran,
S/o. Chinnasamy Naiyakar
Vadipatti Taluk,
Madurai District.

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

1. The State of Tamilnadu,
Rep. by its The District Collector,
Madurai Distirct.
2. The State of Tamilnadu,
Rep. by its Tahsildar,
Vadipatti Taluk, Madurai.
3. The State of Tamilnadu,
Rep. by its District Development Officer,
Vadipatti Taluk, Madurai.
4. Village Administrative Officer,
Valaiyapatti.
5. Panchayat Chairman,
Valaiyapatti.

---- *Respondents / Defendants*

This petition was filed before this Court on 11.08.2023 coming before me for final hearing on 24.09.2024 Advocate Thiru. S. Arumugam appeared for Petitioner / Plaintiff, Advocate Learned Government Pleader appeared for the R1 to R5 / D1 to D5. 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 and section 151 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. 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 petition averments was that, the petition schedule property originally belonged to the petitioner's mother as ancestral property. It was settled in the name of petitioner by settlement deed executed by his mother. After that the petitioner was in possession and enjoyment of the property by planting trees and by paying taxes. In such circumstance, the 5th respondent being panchayath president, inspite of election dispute with the petitioner, sent a notice to the petitioner asking him to vacate the property. Hence, the petitioner filed this suit and this petition was filed seeking temporary injunction.

3. GIST OF THE COUNTER: (the respondent adopted the written statement as counter):

In the counter, the respondent denied the entire petition facts and contended that the respondent did not send notice to vacate petition property in survey no. 65/2A

but only had sent notice to remove encroachment in government wasteland in survey no. 65/8A. The petitioner had filed this petition without any merit. The petitioner did not approach the court with clean hands and hence the respondent 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 disturbing the plaintiff's enjoyment in petition property. The case of the petitioner is that the schedule property belong to him and thereby he was in possession of the property. The respondents were unlawfully trying to evict the petitioner from the property. But the respondents deny the petition facts by contending that the eviction notice was issued to the petitioner for different property and this petition was filed without any merit.

ii. Both the sides did not file any documents in this proceeding.

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. Whereas the respondents did not deny the petitioner's possession in the petition property. There was no dispute between both the sides regarding possession in the petition property. Hence this court concludes that the petitioner had proved the prima facie case for granting temporary injunction.

v. Further it is the duty of the plaintiff to prove the balance of inconvenience. As already mentioned, the petitioner did not let in any proof in this proceeding to substantiate that balance of inconvenience exist. 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 petitioner. 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 balance of inconvenience and irreparable loss. Hence, injunction would not be granted.

5. 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 *24th day of September 2024*.

District Munsif,
Vadipatti.

Petitioner side witness and documents: Nil

Respondents side witness and documents: Nil

District Munsif,
Vadipatti.

Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.02/2023

In

O.S. No.83/2023

Date : 24.09.2024