

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

District Munisf, Vadipatti

**Dated 12<sup>th</sup> day of August 2024****IA. No.1286/2021****In****O.S. No.143/2021**

R. Vijayalakshmi,  
W/o. P. Ramanathan,  
Madurai District.

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

1. \*Chinnathambi,  
S/o. Karanthamalai @ Nallu,  
Vadipatti Taluk, Madurai District.
2. Pathinettu,  
S/o. Vellaichamy,  
Vadipatti Taluk, Madurai District.

***\* Amended as per order in IA No.365/22, dated 16.09.2022*****---- *Respondents / Defendants***

This petition was filed before this Court on 17.12.2021 coming before me for final hearing on 09.08.2024 Advocate Thiru. K. Paramsivam appeared for Petitioner / Plaintiff and Advocate Thiru. C. Raja appeared for R2 / D2 and Suit against R1 / D1 was dismissed on 28.10.2022 . 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 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 petitioner is the plaintiff in the main suit. The main suit was filed for permanent injunction. The petition averments was that, the petition property was originally granted by government to Gundusadayan, it was then purchased by one Mr. R. Jeyaraj, the petitioner's father purchased the petition property from Jeyaraj. The petitioner's husband had built a temple in the petition property. The respondents being adjacent land owners, disturbed the plaintiff's possession in the petition property. Hence, the petitioner surveyed the land on 24.04.2012 and 09.07.2015. At present the petitioner was conducting pooja in the petition property, on 14.07.2021, the respondents sent unidentified persons to the property to disturb the petitioner's possession. The respondents were trying to grab the petition property. The above incidents were informed to the jurisdictional police and it was under investigation. The police also advised the petitioner to get relief from competent court. Hence, the petitioner filed this suit and this petition was filed seeking temporary injunction.

**3. GIST OF THE COUNTER:**

Thus, petition was dismissed against 1<sup>st</sup> respondent.

In the counter, the 2<sup>nd</sup> respondent admitted that the respondent was adjacent land owner of the petitioner and deny all other petition averments. The respondent

also contended that the 2<sup>nd</sup> respondent was unnecessarily impleaded in this petition. Hence, the respondents 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 she had the title and possession for the petition property. The respondents tried to disturb the petitioner's peaceful possession.

ii. In order to substantiate the petitioner's contention, the petitioner had filed 9 documents and the respondents did not file any documents.

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,*

***T2. 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 possession of the petitioner in the petition property, needs to be proved. To prove the possession, the petitioner had filed 9 documents with the petition. Whereas the respondents admit that the petitioner was in possession of the petition property. Further, the petitioner pleaded that the respondents were disturbing her possession and complaint was made to police. But, the respondents have denied such contention, stating no such disturbance was caused and no such complaint was made to police. In this regard, the petitioner has not let in any proof to substantiate her pleadings. Thus, in such circumstance this court cannot find any prima facie case and balance of inconvenience, in favour of the petitioner / plaintiff. Similarly, the petitioner has 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 prima facie case, 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 ***12<sup>th</sup> day of August 2024.***

**Sd/-**  
**M.P. Ramkishore,**  
 District Munsif,  
 Vadipatti.

**Petitioner side evidence: Nil**

**Petitioner side documents:**

|    |  |   |            |
|----|--|---|------------|
| 1  | Sale deed, dated 26.08.1998                          | - | Original   |
| 2. | Patta  | - | Xerox Copy |
| 3. | Sale deed, dated 23.12.2011                          | - | Original   |
| 4. | House Tax Bill, dated 18.12.2020                     | - | Xerox Copy |
| 5. | VAO Certificate along with Electricity Bill          | - | Original   |
| 6. | Rough Sketch   | - | Xerox Copy |
| 7. | Savings Create Prosperity Challan                    | - | Xerox Copy |
| 8. | Savings Create Prosperity Challan                    | - | Xerox Copy |
| 9. | Letter to Vadipatti Police Station, dated 14.07.2021 | - | Xerox Copy |

**Respondents side evidence and documents: Nil**

**Sd/-**  
**M.P. Ramkishore,**  
 District Munsif,  
 Vadipatti.

**TRUE COPY**

DISTRICT MUNSIF COURT  
Vadipatti  
*Fair Order/~~Draft Order~~*  
*IA. No.1286/2021*  
*In*  
*O.S. No.143/2021*  
**Date : 12.08.2024**