

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 04th day of July 2025**CNR. No.TNMD190001632024****IA. No.2 / 2024****In****O.S. No.114 /2024**

1. S. Raman,
S/o. Chellaiathevar
2. S. Ramasamy
S/o. Seenithevar

---- *Petitioners / Plaintiffs****//Versus//***

Nagarathinam,
S/o. Late. Ganesan

---- *Respondent / Defendant*

This petition was filed before this Court on 23.09.2024 coming before me for final hearing on 04.07.2025, Advocate Thiru. C.M. Arumugam appeared for Petitioners / Plaintiffs, Advocate Thiru. A.C. Namburaj 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 C.P.C. to grant temporary injunction restraining the respondent, her men, agents or any other person acting under her 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 petitioners were the plaintiffs in the main suit. The main suit was filed for Permanent Injunction. The relevant portion of the petition in brief was that, the petition properties were purchased by the petitioners on 01.04.2013 from one Pappathiammal and subsequently obtained patta for the said properties. From then they were in possession and enjoyment of the petition properties. The respondent was the wife of Pappathiammal's brother Ganesan and had tried to encroach the petition properties by destroying the banana saplings planted in the petition properties. The petitioners on 16.09.2024 prevented the respondent from encroaching the properties. But the respondent continued to disturb the possession of the petitioners in the petition properties. Hence police complaint was lodged against the respondent to the Palamedu Police Station. As no steps were taken by the police against the respondent, the petitioners filed this suit for permanent injunction and this petition was filed seeking temporary injunction.

3. **Gist of the counter of Respondent: (Written statement of Defendant adopted as counter of Respondent)**

In the written statement, the respondent admitted her relationship with the vendor of this petition properties and denied all other averments of the petition. Further the respondent contended that, the respondent enjoyed as cultivating tenant in the petition properties. Being so, the vendor Pappathiammal had agreed to sold the properties to the respondent and also executed sale deed in favour of the husband of the respondent. After demise of the respondents' husband, the petition properties were in the possession of the respondent. Further no evidence was let in by the petitioners to prove their possession. Thus this petition is liable to be dismissed.

4. Both sides did not let in any evidence on their side.

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 petitioners had filed the main suit seeking permanent injunction. This petition was filed for temporary injunction to restrain the respondent and her men from disturbing the plaintiff's enjoyment in petition properties. The case of the petitioners was that, the petitioner was the owner of the petition property and the respondent disturbed the petitioner's enjoyment by attempting to destroy the saplings planted in the property land.

ii. On the other hand, the respondent challenged the petition and contended that no disturbance was made by the respondent to the petitioners. The petitioners were not a bonafide purchasers. Further the dispute in the petition properties has to be

proved by the petitioner with proper documentary evidence. But no adequate documents had been filed by the petitioners to substantiate their case.

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 legal right of the petitioners in the petition properties, needs to be proved. To prove the legal right, the petitioners had not let in any evidence. On the other hand, the respondent deny the above contention of the petitioner and stated that the petition properties were already sold by the previous vendor to the respondent on execution of sale deed and thereby they do not belong to the petitioners. The petitioners also plead that the petition properties

were attempted to encroach by the respondent. As the respondent deny the petitioners possession by claiming the respondent was the cultivating tenant and the petitioners also plead the respondent had attempted to made encroachment, the nature and extent of possession of parties can only be proved in full trial.

v. The petitioners had not let in evidence to substantiate the petition pleadings, to show that balance of inconvenience exist. Thus in such circumstance this court cannot find any balance of inconvenience in favour of the petitioners/plaintiffs. Similarly, the petitioners had neither pleaded nor 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 referred dictum in the case on hand and from the foregoing discussions, it can be seen that the petitioners 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 the 04th day of July 2025.

District Munsif,
Vadipatti.

Petitioners side evidence and documents : Nil

Respondent side evidence and documents: Nil

District Munsif,
Vadipatti.

Fair Order / ~~Draft Order~~

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.02/2024

In

O.S. No.114/2024

Date : 04.07.2025