

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

District Munisf, Vadipatti

**Dated 27<sup>th</sup> day of February 2025****IA. No.02 / 2023****In****O.S. No.125 /2023**

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1. Senthilkumar,  
S/o. Muniyandi

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

1. The District Collector,  
Madurai.
2. The Tahsildar,  
Vadipatti Taluk, Madurai.
3. The Block Development Officer,  
Vadipatti.
4. Village Administrative Officer,  
Irumpadi,
5. Panchayat Union Chairman,  
Irumpadi,  
Vadipatti Taluk, Madurai.

**---- *Respondents / Defendants***

This petition was filed before this Court on 13.10.2023 coming before me for final hearing on 27.02.2025, Advocate Thiru. A. Ramakrishnan appeared for Petitioner / Plaintiff and Learned Government Pleader appeared for 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 was that the petitioner was the plaintiff in the main suit and the main suit was filed for permanent injunction. The petition contention was that the petition property in Punja Survey No. 67/1, New Survey No.355/8B, 8C with an extent of 6 acres 98 cents in 1681 1/2 sq. ft. was purchased by the petitioner from one Manoharran and his wife on 05.08.2016. From then the petitioner was in possession of the petition schedule property. The 5<sup>th</sup> respondent due to personal vengeance colluded with the 4<sup>th</sup> respondent and issued notice to the petitioner by stating as the petition property was constructed illegally in the common pathway to the graveyard in the village. Further the 5<sup>th</sup> respondent was disturbing the petitioner's possession and enjoyment in the petition property by attempting to encroach the petition property. It was informed to police, but the police instructed the petitioner to get remedy from the civil court. Thus the petitioner filed this suit and this petition was filed seeking temporary injunction.

2. **Counter averments in brief:**(Counter of R4 adopted by other contesting respondents)

In the counter, the respondents admitted that the petition property belong to the petitioner and deny other facts in the petition. The respondents also contended that the petition property in the Punja survey no. 67/1, New Survey No.355/8B, 8C was built with steps by encroaching the common pathway for 5 sq.m. in front of the petition property, hence the 5<sup>th</sup> respondent issued notice to the petitioner to remove the encroachment made by

him. No disturbance was made by the respondents to the petitioner's possession. Thus this petition was filed only to drag on the suit proceedings. Hence this petition is liable to be dismissed

3. Both sides' did not let in any evidence.

4. **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 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 they were in possession for the petition property and the respondents were trying to encroach the petition property. The respondents deny the petitioner's contention and state that they did not try to encroach the petition property.

ii. Both sides' did not file any documents in this 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 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 was purchased by him on 05.08.2016. Since then the petitioner was in possession of the petition property. The 5<sup>th</sup> respondent being an influence person had colluded with the 4<sup>th</sup> respondent and trying to disturb the petitioners possession in the petition property by issuing notice to the petitioner by falsely stating that the petitioner had encroached the common pathway.

v. On the other hand, the respondents deny the petitioner's contention and pleaded that the petitioner made encroachment of 5 sq. m. in the common pathway of the village. Here admittedly the petitioner was in present possession of the petition property. The respondents only dispute that the petitioner had made encroachment for 5 sq. m. in the common pathway of the village, hence notice was issued to remove the encroachment. Considering both side contentions, it is clear that the plaintiff claiming that his possession in suit property was disturbed by the respondents. But the respondents contend as they issued notice only to remove encroachment. Both side did not let in any evidence. In the absence of any evidence to prove the petitioner claim, this court cannot find prima facie rights of the petitioner in the petition property. Further no evidence was let in by the petitioner to show that the respondents caused disturbance in the petition property, thereby prima facie case does not exist in this petition.

vi. The petitioner had not let in 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 / plaintiff. 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 that prima facie case exist, he did not establish 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.

**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 27<sup>th</sup> day of February 2025.*

District Munsif,  
Vadipatti.

**Petitioner side evidence and documents: Nil**

**Respondents side evidence and documents: Nil**

District Munsif,  
Vadipatti.

DISTRICT MUNSIF COURT  
Vadipatti  
*Fair Order/~~Draft Order~~*  
*IA. No.02/2023*  
*In*  
*O.S. No.125/2023*  
**Date : 27.02.2025**