

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

District Munisf, Vadipatti

Dated 18th day of October 2024**I.A. No.519 / 2022****In****O.S. No.121 / 2022**

1. N. Radhakrishnan,
S/o. Nalluchamy
2. N. Vijayakumar,
S/o. Nalluchamy
3. N. Ramesh,
S/o. Nalluchamy
4. L. Kowsalya,
W/o. R. Ravikumar
5. M. Muthuvel,
S/o. Muthuchamy
6. C. Raja,
S/o. Chinnathambi
7. S. Panjavarnam,
W/o. Sundaram
8. M. Sumathi,
W/o. Murugan
9. Manickavel,
S/o. Sundaram
10. Manivannan,
S/o. Sundaram

11. R. Swetha,
W/o. Ranjithkumar

---- *Petitioners / Plaintiffs*

//Versus//

1. Kanagam,
W/o. Late. Rajangam
2. Ananthakumar,
S/o. Late. Rajangam
3. N. Vellaichamy,
S/o. Late. Nallathambi Gounder
4. Panjavarnam,
W/o. N. Vellaichamy

---- *Respondents / Defendants*

This petition was filed before this Court on 29.08.2022 coming before me for final hearing on 18.10.2024 Advocate Thiru. A. Natarajan appeared for Petitioners / Plaintiffs and Advocate Thiru. G. Ramapandian appeared for R1 and R2 and Advocate Thiru. V. Pitchaiappan appeared for R3 and R4. 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 C.P.C. to grant temporary injunction restraining the respondents, their men, agents or any other person acting under them from in any manner interfering the petitioner's from worshipping the petition temple and from building wall covering the petition temple 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 declaration, mandatory injunction and permanent injunction. The petition contention was that, the petition schedule mentioned property was the family temple of petitioners and respondents. By family arrangement made on 27.04.1988, the temple located land was allotted to the 3rd respondent. Even then the family of the parties and the village people were worshipping the petition temple without any disturbance. Being so in December 2021, the respondents attempted to built wall by restricting the pathway to the temple and by covering the temple. Such walls will restrict the access to the temple. It was informed to vadipatti police, even then the respondent did not stop himself from building the wall. If the compound wall was completed it will cause irreparable loss to the petitioners. Hence, the petitioner filed this petition for temporary injunction directing the respondents not to built the compound wall covering the temple till the disposal of the main suit.

3. GIST OF THE COUNTER: (written statement of D1 and D2 adopted as counter)

In the counter, the respondents admitted the petition temple land and their family worship rights of both side parties. The respondents only deny the petition facts regrading the building of wall around the temple. The respondents deny by contending that they did not build any wall by covering the petition temple. Hence the respondent prayed to dismiss the petition 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 declaration, mandatory injunction and permanent injunction. This petition is filed for temporary injunction to restrain the respondents and their men, from building wall by covering the temple and from restricting the petitioners from worshipping the temple. On the other hand, the respondents deny the petition facts by contending that the petitioners were continuously worshipping the temple without any disturbance and the respondents were not attempting to built any wall to prevent access to the temple.

ii. 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.

iii. As this petition is for temporary injunction, the prima facie case, balance of inconvenience, irreparable loss and injury needs to be proved. On perusal of entire records before this court, it is clear that, admittedly the petitioner had filed the main suit for declaration of his right in the suit temple. The matter in dispute was that the respondent was attempting to build compound wall by covering the suit property, if wall was built it would cause irreparable loss and injury to the petitioner. To prove the petitioners contention, the petitioner had filed present photographs of the property and also relied upon advocate commissioner report to prove his contentions. On the other hand, the respondent denied the petitioners contention and had admitted the petitioner's right to worship the schedule mentioned temple but deny that no such wall was built.

iv. On considering the photographs filed with the petition, shows preparation to built some construction near the petition temple, in such circumstance, the respondents completing the compound wall would defeat the object of this suit, causing irreparable loss and injury to the petitioner. Hence this court is of the view that, prima facie case and balance of inconvenience exist, in favour of the petitioner. Thus, this court is inclined to grant temporary injunction till the disposal of main suit.

v. The petitioner shall proceed with the suit without getting any unnecessary adjournments. The respondent shall sought to vacate this order on any unnecessary delay caused in conducting the suit by the petitioner / plaintiff.

5. In the result, this petition is allowed, with condition for the petitioner to proceed the suit without getting unnecessary adjournments. No costs.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on **18th day of October 2024.**

District Munsif,
Vadipatti.

Petitioners side witness: Nil

Petitioners side documents:

1.	Geneological Table
2.	FMB Skecth
3.	Report of the Advocate Commissioner of O.S. No.239/2012
4.	Photographs

Respondents side witness and documents: Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

Fair Order / ~~Draft Order~~

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In

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Date : 18.10.2024