

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

District Munsif, Vadipatti

**Dated this the 29<sup>th</sup> day of January 2026****CNR No. TNMD190001662024****IA. No.2 / 2024****In****O.S. No.117 / 2024**

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1. R. Ramakkal,  
W/o. Rengasamy

---- Petitioner / Plaintiff

***//Versus//***

1. Mahalakshmi,  
W/o. Jeyakumar
2. V. Jenarthanan,  
Surveyor, Vadipatti

---- Respondents / Defendants

This petition was filed before this Court on 27.09.2024 coming before me for final hearing on 29.01.2026, Advocate Thiru. K. Paramasivam appeared for the Petitioner / Plaintiff. Advocate Thiru. V. Muthuramalingam appeared for R1 / D1 and Learned Government Pleader appeared for R2 / D2. 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 enjoyment in the petition property, pending disposal of the suit.

2. **Petition averments in brief:**

i. The petitioner was the plaintiff in the main suit. The main suit was filed for permanent injunction. The petitioner's further contention was that, the property in S.No.101/1B1 with an extent of 72 cents located in Vadipatti, originally belong to one Dhanushkodi , out of which 20 cents was gifted by the said Dhanushkodi to his sister one Valliammal - the petitioner's mother by a settlement deed dated 24.06.1981. Later she executed a settlement deed in respect of 12 cents out of her property to the petitioner and retained the remaining extent with her. Since then the petitioner constructed a house and she was in possession of the petition property by obtaining patta no.387. Subsequently the Survey No.101/1B1 was resurveyed as New Survey No.101/8.

ii. Further the said Valliammal mistakenly had executed another settlement deed for 10 cents in the western side of the petition property to the 1<sup>st</sup> respondent - the grand daughter of Valliammal. Being so, the 1<sup>st</sup> respondent illegally obtained a patta for 13 cents which includes the land of the petitioner and she also attempted to survey the petitioners land, it was prevented by the petitioner. Then she falsely made a false complaint against the petitioner to the police and tried to encroach the bathroom, in the disputed extent of land by making wired fence around the bathroom and disturbed the petitioners possession in the property. Thus a complaint was lodged to the Police. Even thereafter the disturbance of the respondent was continued, thus the petitioner filed this suit for permanent injunction and filed this petition seeking temporary injunction against this respondents.

3. **Counter averments in brief: (Written statements of D1 and D2 adopted as counter of R1 and R2)**

i. The 1<sup>st</sup> respondent challenged the petition by denying the entire averments of the petition and contended that 13 cents out of the petition property in dispute was absolutely belong to the Respondent as it was settled by her grandmother by virtue of settlement deed and the respondent also lawfully obtained patta for the property as per the aforesaid deed. Thereby the petitioner without any right over the petition property had unlawfully claimed the possession of the property. Further the respondent did not made any disturbance to the petitioner. Thus there was no cause of action. This petition was filed without any merit and is liable to be dismissed.

ii. The 2<sup>nd</sup> respondent in his counter had alleged that a survey was conducted on proper notice to the adjacent land owners of the petition property for the application filed by the 2<sup>nd</sup> respondent before the Tahsildar, as per law. Further no disturbance was made by the 2<sup>nd</sup> respondent. Hence the 2<sup>nd</sup> respondent was not a necessary party to this suit. Thus this petition filed only to protract the suit proceedings. Hence it is liable to be dismissed.

4. The petitioner to prove the petition had relied upon the documents; 1. Settlement deed dated 24.06.1981, 2. Settlement deed dated 25.07.1984, 3. Patta No.387, 4. 'A' registrar, 5. FMB extract, 6. Settlement deed dated 27.01.1993, 7. Patta No.434, 8. Complaint to the police dated 20.09.2024 and 9. Complaint to the Tahsildar, Vadipatti dated 21.09.2024, 10 to 12 Complaint to the police dated 22.09.2024. The 1<sup>st</sup> respondent to prove her case had filed 10 documents; 1. Sale deed dated 17.01.1979, 2. Settlement deed dated 24.06.1981, 3. Settlement deed dated 25.07.1984, 4. Patta in the name of Valliammal dated 19.06.1986, 5. Settlement deed dated 27.01.1993, 6. Unregistered settlement deed dated 20.09.1999, 7. Patta in the name of 1<sup>st</sup> defendant/ R1 dated 14.10.2024, 8. FMB extract for S.No.101/7, 9. Patta No.387 and 10. FMB extract for S.No.101/8. The 2<sup>nd</sup> respondent to

prove his case had filed 4 documents. 1. Application dated 18.09.2024, 2. Notice, 3. Surveyor plan and 4. Chitta

5. **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 the relief of permanent injunction. This petition was filed for temporary injunction to prevent the respondents from disturbing the plaintiff's peaceful enjoyment in petition property till disposal of main suit.

ii. The case of the petitioner was that the petitioner was in possession of the petition property as it was gifted to her by her mother and the 1<sup>st</sup> respondent was the niece of the petitioner had illegally obtained patta with the aid of 2<sup>nd</sup> respondent by including the land in dispute by alleging that it was gifted to her by the petitioner's mother and made encroachment in the bathroom, in the disputed extent of land by making wired fence around the bathroom and disturbed the petitioner's possession in the property. On the other hand, the 1<sup>st</sup> respondent denied the petitioner's contention, pleaded that the 1<sup>st</sup> respondent did not disturb the possession of the petitioner and the property claimed by the petitioner was in possession and enjoyment of the 1<sup>st</sup> respondent by settlement deed. In such circumstance, the petitioner filed this false petition by suppressing the material facts. Thus the relief sought by the petitioner was not proved. Thereby the petitioner without any right over the petition property had filed this petition, only to delay the suit 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 she had prima facie case, balance of inconvenience and not granting temporary injunction would result her irreparable loss and injury.

iv. On perusal of entire materials placed before this court, this court can infer that the petitioner filed the main suit for permanent injunction over the suit property in S.No.101/1B1 (72 cents) at Vadipatti, originally belonging to Dhanushkodi, who gifted 20 cents to his sister Valliammal, the Petitioner's mother, under a settlement deed dated 24.06.1981. Valliammal subsequently settled 12 cents in favour of the Petitioner, who has been in possession and constructed a house thereon. By mistake, Valliammal also executed a settlement deed in favour of the 1<sup>st</sup> Respondent, her grand daughter, for 10 cents on the western side. The 1<sup>st</sup> Respondent then illegally obtained patta over 13 cents, attempted to survey the Petitioner's land, made a false police complaint, and encroached upon the disputed portion, prompting the Petitioner to file the suit and the present petition for temporary injunction.

v. As this petition is filed for temporary injunction, the prima facie case of petitioners' legal right needs to be proved. The petitioner had pleaded as the petition property was in possession of the petitioner by patta no.387. But the 1<sup>st</sup> respondent deny the entire petitioner contention and pleaded that the petitioner without any legal rights to the petition

property unlawfully claiming the title of the disputed property. The respondent also contend that the petitioner had wrongly mentioned the measurement of the property, the bathroom in dispute was located in the 1<sup>st</sup> respondent land and patta was mistakenly issued to the petitioner for larger extent.

vi. As the 1<sup>st</sup> respondent had denied the right of the petitioner in the petition property by claiming title and possession, the burden is upon the petitioner to prove the same. The petitioner to substantiate her case during argument had relied upon the documents filed with the main suit in support of her claim. Further to disprove the claim of the petitioner the 1<sup>st</sup> respondent relying upon 10 documents and the 2<sup>nd</sup> respondent let in 4 documents in support of their claim. Upon perusing the documents relied upon by both side parties, this court find that the entire property was partitioned and settled by the petitioner's mother to the petitioner as well as to the 1<sup>st</sup> respondent and hence they were in lawful possession of their respective shares in the petition property by settlement deeds but both the parties claim the possession of the property in dispute. The respondents deny the title, location and extent of the property in dispute. But the documents let in by the petitioner and the 1<sup>st</sup> respondent do not clearly disclose the location of the disputed property. Hence this court cannot find the proper location of the disputed property in this proceedings.

vii. As both parties claim possession and title of the disputed property in the petition property, it can only be proved by letting in evidence during trial. The petitioner / plaintiff can only prove her case by presenting evidence in the main suit.

viii. Thus from the above discussions and on perusal of the entire pleadings, this court cannot find prima facie case in the petition. In such circumstance, this court also can not find balance of inconvenience and 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 has not established the prima facie case, balance of inconvenience and irreparable loss exist in her favour.

ix. To obtain the relief of temporary injunction, the petitioner must prove the principles laid down by our Hon'ble High Court, in this petition the petitioners had not proved the presence of prima facie case, balance of inconvenience and not granting temporary injunction would result irreparable loss and injury. Hence, temporary injunction would be not be granted against the respondent till disposal of the main suit.

6. **In the result**, this petition is dismissed. No costs.

*Order dictated to the Stenographer and computerized, error checked and pronounced in the open court on 29<sup>th</sup> day of January 2026.*

District Munsif,  
Vadipatti.

**1.Petitioner side witness and documents: Nil**

**2.Petitioner side documents:**

1.	Settlement deed dated 24.06.1981
2.	Settlement deed dated 25.07.1984
3.	Patta No.387
4.	'A' registrar
5.	FMB extract
6.	Settlement deed dated 27.01.1993
7.	Patta No.434
8.	Complaint to the police dated 20.09.2024
9.	Complaint to the Tahsildar, Vadipatti dated 21.09.2024
10.	Complaint dated 22.09.2024
11.	Complaint dated 22.09.2024
12.	Complaint dated 22.09.2024

**3.1<sup>st</sup> Respondent side witness and documents: Nil****4.1<sup>st</sup> Respondent documents:**

1.	Sale deed dated 17.01.1979
2.	Settlement deed dated 24.06.1981
3.	Settlement deed dated 25.07.1984
4.	Patta in the name of Valliammal dated 19.06.1986
5.	Settlement deed dated 27.01.1993
6.	Settlement deed dated 20.09.1999
7.	Patta in the name of 1 <sup>st</sup> defendant/ R1 dated 14.10.2024
8.	FMB extract s.no.101/7
9.	Patta No.387
10.	FMB extract for s.no.101/8

**5.2<sup>nd</sup> Respondent side witness and documents: Nil****6.2<sup>nd</sup> Respondent side documents:**

1.	Application dated 18.09.2024
2.	Notice
3.	Surveyor plan
4.	Chitta

District Munsif,  
Vadipatti.

*Fair Order / ~~Draft Order~~*

DISTRICT MUNSIF COURT  
Vadipatti  
*Fair Order/~~Draft Order~~*  
*IA. No.2/2024*  
*In*  
*O.S. No.117/2024*  
**Date : 29.01.2026**