

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

District Munisf, Vadipatti

Dated 19th day of September 2024**IA. No.01 / 2023****In****O.S. No.142 / 2023**

M. Selvarani,
W/o. Muthaiah,
Jeykindhpuram, Madurai District.

---- Respondent / Plaintiff**//Versus//**

1. G. Nagaraj,
S/o. Kodhandaraman,
Thiruppalai, Madurai Distirct.
2. S. Jothi,
S/o. Sandhanam,
Kondaiyampatti Village Utkadai,
Vadipatti Taluk, Madurai.
3. C. Velavendhan @ Governor,
S/o. Chandrasekaran,
Thanichiyam Village,
Vadipatti Taluk, Madurai.

---- Petitioner / Defendant

This petition was filed before this Court on 11.12.2023 coming before me for final hearing on 19.09.2024 Advocate Thiru. M. Thiyagarajan appeared for Petitioner / Plaintiff, Advocate Thiru. P. Chandramohan appeared for the Respondent / Defendant. Upon hearing

the arguments advanced by both sides' and 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 and section.151 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's contention was that, the petition property originally belonged to K.K.Rajangam, after his death it devolved upon his heirs, 1. Kulandaivel, 2.Tirumalai babu and 3. Ramkumar. Later Kulandaivel and Ramkumar were deceased. The petitioner purchased the petition property on 01.10.2022 from Tirumalaibabu, legal heirs of Kulandaivel and Ramkumar by registered sale deed. The petitioner was in possession of the petition property from the date of sale. The 1st respondent being the owner of adjacent land was disturbing the possession of the petitioner in the petition property. The respondents also disturbed the petitioner by claiming that the petitioner had wrongly purchased some extent their property and also denied to measure the property. The petitioner informed the incident to the police but they asked to get civil remedy from court, thereby the petitioner filed this main suit for permanent injunction. The petitioner filed this petition for temporary injunction.

3. GIST OF THE COUNTER:

The respondent challenged the petition by denying the entire petition. The respondent contended that the petition properties were initially belong to K.K. Rajangam, later it devolved upon his wife and then to their 1st son Kulandaivelu. The said Kulandaivelu executed a settlement deed on 22.10.2013 for the petition schedule

3 to 10 mentioned properties in favour of his wife Yogeshwari. The said Kulandaivelu and his wife entered into agreement of sale for the properties with this 1st respondent on 16.06.2014 and 20.08.2014, then handed over the possession of the property to the 1st respondent. Kulandaivelu and his wife used to get the consideration amount in part to the tune of Rs.56,00,000/-, then as they tried to sell the property to other persons, this respondent gave a advertisement in newspaper regarding the property. Later Kulandaivelu died and his legal heirs entered into a sham sale deed with this plaintiff to defraud the 1st respondent. They also tried to disturb the respondents possession in the petition property. Hence there was no necessity for temporary injunction, this petition was filed without any merit and is liable to be dismissed.

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 was that the petition schedule mentioned properties were purchased by the petitioner and from the date of sale, she was in possession of the property by doing agriculture. The respondents were disturbing the petitioner's possession in the property. On the other hand, the respondents deny the petition facts by contending that the 1st respondent entered into an sale agreement regarding the 3 to 10 items in the petition schedule mentioned property, consideration was paid and they were in possession of the petition schedule mentioned 3 to 10 property.

ii. In order to substantiate the petitioner's contention, the petitioner had filed 15 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,

"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 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 of petitioners legal right needs to be proved. To prove the prima facie case, the petitioner had filed 1 to 11 documents with the petition. Whereas the respondents denied that the petitioner's possession in the property but contend that the respondents were in possession of the property from the date of sale agreement but no documents were

filed in this proceeding. On perusal of the petitioner's documents, it clearly shows that prima facie case exist, in favour of petitioner, for granting temporary injunction.

v. The petitioner had pleaded that the respondents tried to disturb the petitioners by preventing the agricultural work, the petitioner had filed photographs, F.I.R. and police complaint to prove the same. On the other hand the respondents totally denied the petitioner's contention and pleaded that the respondents did not follow any unlawful means. On perusal of the photographs, it did not disclose the disturbance caused by the respondents. Further, the complaint made by the petitioner shows balance of inconvenience exist. Similarly, the petitioner has pleaded that if the injunction is not granted, it would cause irreparable loss to the petitioner. The photographs filed by the petitioner shows, agriculture was carried out in the petition land, in such scenario any disturbance caused in the petition property would disturb the agriculture and thereby would lead to irreparable loss and injury. Thus, by relying upon the above mentioned dictum in the case in hand and from the foregoing discussions, it can be seen that the petitioner had established balance of inconvenience and irreparable loss. Hence, temporary injunction is granted, in favour of the petitioner.

5. *In the result*, this petition is allowed. No costs.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on *19th day of September 2024*.

District Munsif,
Vadipatti.

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

1.	Patta No.1176 and 1170
2.	Death Certificate, dated 24.06.2019
3.	Legal Heir Certificate, dated 20.07.2019
4.	Death Certificate, dated 18.06.2022
5.	Legal Heir Certificate, dated 11.08.2022
6.	Sale deed, dated 01.10.2022
7.	Sale deed, dated 01.10.2022
8.	Patta No.2210 and 2211
9.	Kist receipt
10.	Adangal
11.	Encumbrance Certificate
12.	F.I.R.
13.	Photograph
14.	Photograph
15.	Complaint

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 : 19.09.2024