

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Tuesday, the 24th day of March 2026

I.A.No.3/2025

in

O.S.No.117/2025

1. S.Jayanthi

2. S.Bhuvaneswari

3. S.Divya

..... Petitioners/Plaintiffs

// Vs //

1. R.Deivendran

2. R.Tamilarasu

3. R.Panaiyanmanivasagan

..... Respondents/ 1st to 3rd

Defendants

This petition is coming up for final hearing before this court on 16.03.2026 in the presence of Advocate.Thiru.M.Vairamani, Advocate for the Petitioners and Advocate.Thiru.S.Jothimani, Advocate for the 1st

to 3rd respondents and upon hearing the enquiry on both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following:-

ORDERS

This petition has been filed Under Order 39 Rule 1 & 2 and Section 151 of CPC pass an order of temporary injunction restraining the respondents/1st to 3rd defendants, not to create any encumbrances in respect of the suit property till the disposal of the main suit and in the meantime pass an ex parte order of ad-interim injunction to the same effect till the disposal of this petition.

1. Brief averments of the petition :-

(I) The 1st petitioner herein is the 1st plaintiff in the original suit. The 2nd petitioner is the sister of the 1st petitioner. The 1st petitioner filing this affidavit on behalf of himself and on behalf of the 2nd petitioner. The original suit has been filed by the petitioners/plaintiffs for partition and separate possession as against the respondents/defendants. The petitioner's father Mr.Late.Swaminathan and the respondents are the brothers and sons of the Late.Rasu Ambalam. The petitioner's father Late.Mr.Swaminathan was born through the 1st wife Muthammal of

Late.Mr.Rasu Ambalam, after the death of the first wife Muthammal Late.Mr.Rasu Ambalam married one Amirtham as second wife, the respondents/ 1st to 3rd defendants were born through the second wife Amirtham. We further submit that some of the suit properties are ancestral and others were purchased by our father Late.Mr.Swaminathan by his own income. Even through the properties were purchased by our father, all the properties are maintained as joint family properties and our paternal grand father Late.Mr.Rasu Ambalam managed the same as Kartha of joint family.

(ii) It is significant to mention that patta for the suit properties are stands in the name of our paternal grand father Late.Mr.Rasu Ambalam. After the death of Late.Mr.Rasu Ambalam Patta stands in the name of Amirtham. Now the respondents/ 1st to 3rd defendants by taking advantage of our absence in the suit village, with the malafied intention to swallow the joint family properties, very recently transferred patta in their names. It is pertinent to mention that the respondents/ 1st to 3rd defendants with the intent to create document and to ignore our rights, even though patta for the suit properties stands in their name, respondents/ 1st to 3rd defendants, on 28.05.2024 fabricated a Sham and

Nominal sale deed in respect of the suit properties item No: 4 to 6, as if the same were belonged to the 4th defendant, hence the 4th defendant impleaded as party to the suit to get binding adjudication. The petitioner's father Late.Mr.Swaminathan cultivated some fertile land as a tenant, along with joint family member, but the respondents/ 1st to 3rd defendants by suppressing the real facts and tenancy rights of our family, they purchased the lands from respective owners. Further the respondents/1st to 3rd defendants are trying to occupy all the joint family properties and to sell the same.

(iii) It is significant to mention that the suit properties are all ancestral properties to us and respondents/ 1st to 3rd defendants. There is no partition our father Late.Mr.Swaminathan and the respondents/ 1st to 3rd defendants. After the death of our father Late.Mr.Swaminathan, all the suit properties are in our joint possession and enjoyment with the respondents/ 1st to 3rd defendants. Our father and mother died intestate leaving behind us, as their legal heirs. Even though the patta for the suit properties stands in the name of respondents/ 1st to 3rd defendants the same amounts to, for the respondents/ 1st to 3rd defendants and on behalf of the other legal heirs of the deceased

Mr.Rasu Ambalam. Apart from that, when the suit properties belongs to all legal heirs of the deceased Mr.Rasu Ambalam, the respondents/ 1st to 3rd defendants alone has no manner of exclusive or absolute legal right over the suit properties.

(iv) It is submitted that, as stated supra at the instance of the death of Mr.Rasu Ambalam, we and the respondents/ 1st to 3rd defendants had succeeded to the suit properties and the same are jointly belonging to us and we are entitled equal share. Now the respondents/ 1st to 3rd defendants trying to sell suit properties and also alter the physical feature, hence we filed this petition to restrain their illegal activities. The petitioners prays pass an order of temporary injunction restraining the respondents/1st to 3rd defendants, not to create any encumbrances in respect of the suit property till the disposal of the main suit and in the meantime pass an exparte order of ad-interim injunction to the same effect till the disposal of this petition. Hence this petition has to be allowed.

2. Brief averments of the written statement of D1 adopted as counter of 1st to 3rd respondents:-

(I) The respondents herein is the plaintiff in the original suit. The respondents admitted averments hereunder, all the other averments are denied and the petitioner are put to strict proof of the same. It is true that the plaintiffs sent a legal notice to the defendants on 14.06.2025, and the defendants, having received it, sent a legal reply to the plaintiffs on 27.06.2025. But the plaintiffs did not file that declaration with their suit. Only 7,8,9 items of the suit properties are joint family property in which the plaintiffs and the defendants have a share. The 7, 8, and 9 items of the properties have not been divided as the plaintiffs live in Chennai and the lawyers did not ask for a share until before the announcement. The 7 and 8 items of the suit properties are barren land without any agriculture. The defendants have not enjoyed any benefits from those properties. The 9th item of the suit property mentioned in the suit is a dilapidated house that cannot be used by anyone. The defendants have also not used the said house. The defendants have not made any attempt to divide the 7,8 and 9th items of the suit property. The

defendants are still ready to share the 7,8 and 9th items of the suit property if the plaintiffs are ready.

(ii) The 1 to 3 items of the properties are found in the plot are purchased by the defendants' mother, Amirtham @ Amirthammal, from her own income after selling some of the 30 sovereigns of gold jewellery given to her by her parents as a dowry. Even before the purchase of 1 to 3 items of suit properties, the 1st to 3rd defendants' father Mr.Late.Rasu Ambalam, passed away. As for the 1 to 3 items of the suit properties, they belong only to the defendants, who are his children, since Amirtham is the owner. The plaintiffs have no right to any share in this. The 1st to 3rd items of the suit properties are not ancestral properties. The 1st to 3rd items of the suit properties are the self-acquired properties of Amirtham @ Amirthammal, the mother of 1st to 3rd defendants. The 4th to 6th items of the suit properties are acquired by the 1st to 3rd defendants separately. Furthermore, the plaintiffs have no right or share in the 1st to 6th items of the suit properties.

(iii) In the reply notice sent by the 1st to 3rd defendants, Patta No.255, Survey No. 317/2A1, shown as 10 and 11 items of the suit property, has an area of 0-0.50 ares, and another property, 318/3C, has

an area of 0-1.00 ares. These two properties are undivided joint family properties in Kottampatti village. The above properties are ancestral properties of the 1st to 3rd defendants and the plaintiffs' father Mr.Swaminathan, and the defendant's father Mr.Rasu Ambalam, after whose death the plaintiffs' father Mr.Late.Swaminathan obtained the transfer of the patta in his name. Furthermore, when the National Highways Department acquired these properties for a four-lane road in 2006, only the plaintiffs' father Mr.Late.Swaminathan received the sale amount from the government. The defendants were not given any share in it. Therefore, the defendants should get 3/4 of the sale price received from the above government. The defendants were not given any share in it. Therefore, the defendants should get 3/4 of the sale price received from the above government. The defendants have stated in their reply notice that the 10 and 11 items of the suit property the nanja land measuring 0-0.50 ares in Kottampatti Village Survey No. 317/2A, Madurai District, Melur Taluk, and the nanja land measuring 0-1.00 ares in Kottampatti Village Survey No.318/3C, Melur Taluk, Madurai District are joint family property and the suit property should be continued by adding it to the above original case. The plaintiffs did not

include the undivided properties in the suit, but included the properties acquired by 1st to 3rd defendants and their mother purchase as 1 to 6 items of suit properties in the suit, and no documents were filed in this court to prove that the aforementioned 1 to 6 items of suit properties are joint family properties. Hence this petition has to be dismissed with costs.

3. The point for consideration aroused is that:-

Whether the petition has to be allowed or not ?

4.Point :-

4.1 Both sides heard. Records perused. The petitioners/plaintiffs filed this petition not to create any encumbrance over the suit property.

4.2 The petitioner's case is that the suit properties are the ancestral properties of their grand father Mr.Rasu Ambalam who had two wives. The plaintiffs/petitioners father is one Mr.Swaminathan is the son through the first wife Mrs.Muthammal. After the death of Mrs.Muthammal, Rasu Ambalam remarried the mother the defendants one Mrs.Amirtham. The plaintiffs/petitioners are out of town and taking advantage of this, the respondents/defendants are trying to alienate the suit properties. Hence this petition has been filed. On the

other hand, the respondents/defendants have stated that they are the legal heirs of Mr.Rasu Ambalam and Mrs.Amirtham and the 1st to 6th items of the suit properties are the self acquired properties of their mother Mrs.Amirtham and of themselves by way of purchase. The respondent/defendants have also stated no objection with respect to Items 7 to 9 of the suit properties for partition since they were the ancestral properties.

4.3 Considering the evidences on both sides, the I item of the suit property is S.No.238/3C extending 23.50 Ares in Ayyapatti Village originally belongs to one Mrs.Savithri who was a minor at the time of partition executed in the year 1973. The 2nd item of the suit property is S.No.204/6A in Ayyapatti Village was purchased by the mother of the respondents/defendants namely Mrs.Amirthammal W/o.Rasu Ambalam on 26.02.1979 in R.S.No.204/6 extending western 25 1/2 cents. The 3rd item of the suit property is in S.No.206/6A for which no title deeds filed but patta was filed in patta number 4260 in the names of the respondents/defendants. The IV item of the suit property is in S.No.242/3 corresponding New S.No.651/1 in Ayyapatti Village originally belong to one Mrs.Savithri who was a minor then executed

the sale deeds dated 28.05.2024 in favour of the defendants/respondents. Hence from the above documents, it is found that S.No.238/3(I) item and S.No.242/3(IV) item of the suit properties originally belong to one Mrs.Savithri by way of partition deed dated 28.03.1973. The said Mrs.Savithri executed three sale deeds in favour of the defendants/respondents on 28.05.2024, with respect to IV item of the suit property. Hence Items No. I and IV are not the ancestral properties of the plaintiffs is evident.

4.4 Item No.2 that is S.No.204/6 was purchased by mother of defendants/respondents Mrs.Amirthammal by way of sale deed in R.S.No.204/6 is the self acquired property of herself. As per Hindu Succession Act, 1956, the property of the Hindu female shall be treated as her absolute property. Hence it is also not the ancestral property of the petitioners/plaintiffs. The other properties in Item No.5,6 they are mentioned as the New S.Nos for S.No.242/3 which belong to Mrs.Savithri Ammal who in turn executed the sale deeds in favour of the defendants/respondents. For which Natham Patta in Patta No.775 in the names of respondents/defendants filed. The above said documents show that the corresponding Old S.No, for V and VI items of suit

property is R.S.No.242/3; Hence except the III, VII, VIII and IX items of the suit properties, all other properties are not the ancestral properties of the plaintiffs/petitioners.

4.5 Hence prima facie case made out with respect to VII, VIII and IX items of the suit properties which are admitted by the defendants/respondents. There is no such document filed by the plaintiff to show III item in S.No.206/6A is the ancestral property of the plaintiffs. Hence the balance of convenience, irreparable loss and injury and prima facie case is with respect to VII, VIII and IX item of suit properties are established. Hence Ad interim injunction is granted with respect of 7th to 9th items of the suit properties alone and this petition is dismissed with respect to 1st to 6th items of suit properties.

5. Result:-

In the result, this petition is partly allowed. No costs.

Written to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 24th day of March 2026.

**Sub Judge,
Melur.**

BOTH SIDES OF DOCUMENTS AND WITNESSES:- NIL

**Sub Judge,
Melur.**

Draft/Fair Order
in
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in
O.S.No.117/2025
Dt : 24.03.2026
Sub Court, Melur