

IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM

Present: Selvi. T. Naveena B.com., L.L.B (Hons).,

**District Munsif,
Kumarapalayam.**

Thursday the 03rd day of July 2025

I.A. No.5/2024

IN

O.S. No.348/2020

1. Natarajan,
2. Sherangan,
3. Gopalakrishnan,
4. Gandhasamy(Died),
5. Kalaiyaran,
6. Sasikuamr,
7. Ganesan(Died),
8. Munusamy,
9. Palanisamy,
10. Mani,
11. Kannayan,
12. Vijaya,
13. Chandira

...

/Vs/

Petitioners/Defendants

1. L. Ramasamy,
2. L. Muthusamy @ Chinnadurai ...

Respondents/Plaintiffs

This Petition came for final hearing before this court on 03.07.2025 in the presence of Tr. M. Jhaherhussain, Advocate for the Petitioners/Defendants and Tr. S. Elango, Advocate for the Respondents/Plaintiffs and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

ORDER

This petition has been filed Under Order XXXIX Rule1,2 and Section 151 of Code of Civil Procedure

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The petitioners have filed the above suit for permanent injunction and the suit was posted for cross examination of plaintiff side witness. The petitioners prayed to adopt their written statement as a part of this petition. Shri Vinayagar Temple is situated in the suit property and the contention of the respondents that they have been the trustees of the temple hereditarily is not acceptable. There are empty lands around the temple and item 2 of the petition mentioned property, situated opposite to the temple. The case of the respondents is

that the respondents are the permanent trustees of the temple and that the petitioners have only right to worship and cannot interfere in the administration of temple and that permanent injunction shall be granted against the petitioners.

The petitioners and people belonging to petitioner's community and people of Ranganur have been worshipping in the temple. The petitioners and people belonging to petitioner's community have been worshipping in the temple hereditarily and it is a common temple for all villagers of Ranganur Village. The respondents used to give tortures to the petitioners and their community people and based on the petition filed regarding this to the Tahsildar on 24.02.2015, the petitioners and respondents gave a written consent on 02.03.2015 to the RDO to conduct the festival without causing problems.

The respondents have been causing troubles by not collecting taxes, hindering worship and isolating the petitioners and their community people. The பொட்டுசாமி (கடகடப்பான்) காவல் தெய்வம் and ஓங்காளியம்மன் தெய்வம் are situated in the 2nd item of the petition mentioned property and the empty land of the 2nd item properties used to keep pongal and carry out other temple activities were demolished by the respondents and attempts are being made to build structures. Since the empty lands in the 2nd item property are the common lands belonging to the Government, the attempt to build structures during the pendency of suit is illegal and to prevent this act of the respondents, the petitioners prayed to allow this petition granting interim permanent injunction.

2. BRIEF FACTS OF THE COUNTER STATEMENT OF 1ST AND 2ND RESPONDENTS WOULD RUN AS FOLLOWS:

The respondents denied all the allegations except those admitted as true. The petitioners are not entitled to the wrongful prayer of interim permanent injunction. An interim injunction can never be a permanent injunction. The respondents are the administrators of the temple and there are no other vacant lands in the suit property. The petitioners have been filing unnecessary applications for dragging the suit since they have no case at all. The petitioners have been prolonging the suit, by leaving to suit exparte repeatedly and not cross examining the plaintiff witnesses. The petitioners are not entitled to any relief in this petition since they did not seek any relief in this regard in the suit and prayed to dismiss the petition.

3. ISSUES: Whether or not this petition filed under Order XXXIX Rule 1, 2 and Section 151 of CPC be allowed?

4. DISCUSSION:

Heard. Records perused. The petitioners have contended that the respondents have been causing troubles to the petitioners and people from their community from worshipping in the Shri Vinayagar Temple and by not collecting taxes, hindering worship and isolating the petitioners and their community people and from keeping pongal and participating in other temple events. The petitioners have contended that the respondents have been trying to erect structures in the 2nd item of petition mentioned properties on the opposite of the Shri Vinayagar Temple in which situates the பொட்டுசாமி (கடகடப்பான்) காவல் தெய்வம் and ஓங்காளியம்மன் தெய்வம் and the empty lands used to keep pongal and carry on the temple activities. The respondents contented that the prayer of the petitioner to grant interim permanent injunction is meaningless and that the petitioners intend to cause delay of the proceedings through this petition.

When the petitioners argued that the respondents have not denied the construction made and that the petitioners have filed the present petition since the respondents have raised construction pending suit, the respondents argued that the prayer of the petitioners to grant interim permanent injunction is meaningless and that the petitioner had filed this petition to cause delay in the proceedings and that the petitioners have not provided any proof of construction.

Upon perusal of records, it is observed by this court that the petitioners herein are the general public who have been worshipping the temples in the item 1 and 2 of the petition mentioned properties. The respondents have objected the prayer of grant of interim permanent injunction since such a relief does not exist and prayed to dismiss the petition for the same. This court is of the opinion that the real intention of the parties should be looked into and not merely consider the nomenclature claimed. From the facts elucidated, it is clear to this court that the petitioners aim for grant of interim or temporary injunction till the disposal of suit. Thus, this reason is considered insufficient for this court to dismiss the petition.

However, the main contention of the petitioner is to grant injunction against the respondents who have been trying to erect structure in the empty lands in the 2nd item of the petition mentioned properties used to keep pongal and carry on the temple activities. The petitioners have not produced any evidences to establish the said act of construction by the respondents. Mere allegations without any valid evidences cannot be considered by this court. Since the petitioners have not proved that the respondents have been trying to erect structures in the 2nd item of the petition mentioned properties, no prima facie case has been made out.

Therefore, this court is of the opinion that since no prima facie case is made out, the petitioners are not entitled to the relief of temporary injunction.

In the result, this petition is DISMISSED. No costs.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 03th day of June 2025.

District Munsif,
Kumarapalayam.

PETITIONERS SIDE DOCUMENTS Nil

RESPONDENTS SIDE DOCUMENTS Nil

District Munsif,
Kumarapalayam.

Fair/Draft orders
IA.5/2024 IN
OS.No.348/2020
Date:03.07.2025