

IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM

Present: **Thiru. L.PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Friday, the 13th day of February 2026

I.A. No. 03 of 2025
in
O.S. No. 51 of 2025
(C.N.R. No. TNNS030 - 00088 - 2025)

S. Senthilkumar

... Petitioner/Plaintiff

/VS/

1. B. Kamala

2. Indira

3. Chandralekha

4. Kavitha

5. Rajkumar

... Respondents/Defendants

This petition came on 13.11.2025 for final hearing before me in the presence of Mr. A. Mahesh, learned Counsel for the Petitioner/Plaintiff and of Mr. R. Ravikumar, learned Counsel appearing for the Respondents/Defendants, upon hearing Petitioner's side, and upon considering case records carefully, this court passes the following

ORDER

1. This Interlocutory Application is filed by the Petitioner under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, seeking an order of Temporary Injunction restraining the Respondents, their men, agents, servants or anybody claiming through them from in any manner interfering with the

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Petitioner's peaceful possession and enjoyment of the Suit Schedule Property pending disposal of the Suit.

Gist of Petition and Affidavit

2. The case of the Petitioner is that the Suit Schedule Property originally stood in the name of the 5th Respondent under a registered Sale Deed dated 16.12.1992 and was subsequently conveyed by him to the Petitioner's father, Mr. A. Subramani, by a registered Sale Deed dated 20.07.2005, with delivery of possession. Thereafter, the property was settled in favour of the Petitioner under a registered Settlement Deed dated 01.03.2019, pursuant to which the Petitioner claims to be the absolute owner in possession and enjoyment of the property. It is further stated that Respondents 1 to 4, at the instigation of the 5th Respondent, interfered with his possession and had earlier filed O.S. No.112/2019 challenging the Sale Deed dated 20.07.2005, which came to be dismissed by Judgment and Decree dated 20.12.2024 holding that the property belongs to the Petitioner and that he is in possession; though an appeal in A.S. No.5/2025 has been preferred, no stay has been granted. The Petitioner further alleges that despite the said decree, the Respondents again interfered with his possession on 24.03.2025 when he commenced cleaning work after obtaining permission from the Revenue Authorities, compelling him to lodge a police complaint, and hence the present petition seeking protection against continuous interference.

Counter Statement of the Respondents

3. The Respondents 1 to 5 have filed a memo adopting the Written Statement filed in the main suit as their counter in this application. In the said Written Statement, they contend that the Suit Schedule Property is joint family

property and that the 5th Respondent had no authority to execute the Sale Deed dated 20.07.2005 in favour of the Petitioner's father. They further state that they have preferred A.S. No.5/2025 challenging the Judgment and Decree in O.S. No.112/2019 and therefore the Petitioner cannot place reliance upon the said Judgment, and also assert that they have not parted with possession of the property and that the present application is not maintainable.

Points for Consideration

4. The point that arises for consideration in this Interlocutory Application is, whether the Petitioner has made out a case for grant of Temporary Injunction pending disposal of the Suit?

Arguments on either Side

5. The learned Counsel for the Petitioner advanced detailed oral arguments and also filed Written Submissions, contending that the Petitioner has established title to the suit property through registered documents, namely the Sale Deed dated 16.12.1992, Sale Deed dated 20.07.2005 and Settlement Deed dated 01.03.2019. It is further submitted that in O.S. No.112/2019, this Court rendered categorical findings that the property is not joint family property, that the suit therein was barred by limitation, that the alleged borrowal theory was not proved, and that the present Petitioner is in possession of the suit schedule property. Though A.S. No.5/2025 is pending, there is no stay of the Judgment and Decree dated 20.12.2024 and therefore the findings therein continue to operate. It is also contended that the Respondents have merely reiterated the pleadings already rejected in the earlier suit without producing any material to establish possession,

and that the Petitioner has made out a prima facie case, balance of convenience and irreparable injury warranting interim protection.

6. Per contra, the learned Counsel for the Respondents submitted that the property is joint family property and that the 5th Respondent had no authority to execute the Sale Deed dated 20.07.2005. The learned counsel for the respondents further contended that in view of the pendency of A.S. No.5/2025, the Petitioner cannot rely upon the findings in O.S. No.112/2019, and that the Respondents are in possession of the property and hence the Petitioner is not entitled to the relief of injunction.

Discussion

7. It is well settled proposition of law that the grant of Temporary Injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure is governed by the threefold test, namely, existence of a prima facie case, balance of convenience and irreparable injury. The Honourable Apex Court in ***Dalpat Kumar v. Prahlad Singh, 1992 (1) SCC 719***, has held that a prima facie case means a substantial question raised bona fide requiring adjudication at trial. In ***Wander Ltd. v. Antox India (P) Ltd., 1990 Supp SCC 727***, it has been held by the Honourable Apex Court that interlocutory relief is intended to preserve the subject matter pending final adjudication and is discretionary in nature. Further, in ***Shiv Kumar Chadha v. Municipal Corporation of Delhi, (1993) 3 SCC 161***, the Honourable Apex Court reiterated that all the three ingredients must co-exist for grant of injunction.

8. In the present case, though the Petitioner has contended that in O.S. No.112/2019 this Court has held that the Respondents have no title, that the property is not joint family property and that the Petitioner is in possession, it is pertinent to note that in this Interlocutory Application no documents have been marked on the side of the Petitioner to substantiate the said contentions. Though it is stated that documents were filed along with the plaint, the same have not been marked in this petition. It is trite law that documents not proved and marked in the concerned proceeding cannot be relied upon for deciding the application. The Hon'ble Supreme Court in **Anathula Sudhakar v. P. Buchi Reddy, (2008) 4 SCC 594**, has held that the Court must examine the pleadings and evidence available in that very suit while considering injunction and cannot assume title or possession without supporting material. Therefore, the unmarked documents cannot be taken into consideration by this Court.

9. Further, the observations made by this Court in the previous suit cannot automatically be imported into the present petition. The earlier suit was decided on the basis of oral and documentary evidence adduced therein. Findings rendered in one proceeding cannot be mechanically applied in another without independent proof. The Hon'ble Supreme Court in **State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254**, has observed that findings in one case cannot be relied upon in another without proper appreciation of the evidence on record in that case. Hence, this Court can consider only the pleadings and materials available in this petition for the purpose of deciding the present application.

10. It is pertinent to note that in the main suit, issues have already been framed and the suit is in the stage of trial from 22.08.2025. When the suit has

entered the trial stage, the rights of the parties are to be adjudicated on the basis of evidence to be let in by both sides. The interlocutory application cannot substitute the trial, nor can the Court render findings touching upon title or possession in the absence of marked documents and tested evidence.

11. Though it is true that an appeal in A.S. No.5/2025 has been filed and no stay has been granted, mere filing of an appeal does not operate as stay of the decree, as held by the Honourable Supreme Court in ***Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd., (2005) 1 SCC 705***. However, the absence of stay by itself does not dispense with the requirement that the Petitioner must independently establish a prima facie case in the present application based on the materials placed herein.

12. In view of the above discussion, and in the absence of marking of relevant title deeds or independent material to establish present possession of the petitioner in this petition, this Court is constrained to hold that the Petitioner has not satisfactorily demonstrated a prima facie case solely on the basis of pleadings and unmarked documents. As the grant of Temporary Injunction is a discretionary and equitable relief, the Court must strictly confine itself to the records available in this petition and cannot rely upon unproved documents or prior observations automatically. Therefore, this Court finds that the Petitioner has failed to establish the essential ingredients for grant of Temporary Injunction and hence this court holds that the petitioner is not entitled for the relief of Temporary Injunction as prayed for.

13. Considering the nature, facts and circumstances of the case the parties are directed bear their own costs.

Result

14. In the result, this petition is dismissed. No costs.

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 13th day of February 2026.

**District Munsif,
Udhagamandalam.**

Petitioner's side documents marked: Nil

Respondents' side documents marked: Nil

**District Munsif,
Udhagamandalam.**

Draft/Fair Order:

I.A. No. 03/2025

in

O.S. No. 51/2025

Date: **13.02.2026**

**District Munsif Court,
Udhagamandalam.**