



**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,  
RAMANATHAPURAM.**

**PRESENT: THIRU.A.K. MEHBUB ALI KHAN, B.L.M.,L.L.M.,  
PG.D.PM/IR.Dip.in.J.J & J.Psy., P.G. D.D.F.,  
PRINCIPAL DISTRICT JUDGE,  
RAMANATHAPURAM.**

**Wednesday, the 17<sup>th</sup> day of September 2025**

**I.A.No. 18/2025 in O.S. No. 45/2020**

\*\*\*

01. Kalaiselvi
02. Mohan
03. Ponmalar
04. Jeyabalan
05. Poongodi
06. Manvizhi
07. Dharsana Nachiyar ... Petitioners/ Plaintiffs

-VS-

01. The State through its  
District Collector
02. Revenue Divisional Officer,  
Revenue Divisional Office,  
G.H. Road,  
Ramanathapuram.
03. Tahsildar,  
Taluk Office,  
Vandikkara Street,  
Ramanathapuram.
04. The Chief Educational Officer,  
Aranmanai Salai,  
Om Sakthi Nagar,  
Ramanathapuram. ... Respondents/1 to 4  
Defendants



This petition came on 14.08.2025 before this Court for final hearing in the presence of Thiru.B. Sundar Rajan, Advocate for the petitioners/Plaintiffs, Government Pleader for the respondents 1 to 4/defendants 1 to 4 and on heard their arguments and on perusal of records, this Court delivers the following:

**ORDER**

The Petition is filed by the Petitioners/Plaintiffs under Order 39 Rule 1 and 2 of C.P.C.

**2. The case of the petitioners in brief:**

The petitioners/plaintiffs have filed the suit for declaration and injunction. The suit property and larger extent in S.No. 147/1 and 147/2 extending 30 Acres and 35 Cents originally belonged to ( 1) Ramasamy Thevar, (2) Ponnaiyasamy Thevar, (3) Nagarethinasamy Thevar (4) Rethinavelsamy Thevar, (5) Ibramsha and (6) Mohammed Sheriff. They were granted joint patta and each were entitled to 5 Acres and 5 cents. Accordingly, Ponnaiyasamy Thevar also had right and title over 5 Acres and 5 Cents. The SLR, UDR and the other Revenue records stood in the name of the said person and thereby established the title of Ponnaiyasamy Thevar in respect of 5 Acre and 5 Cents. He died in the year 1964 leaving behind his sons (1) Ganesa Pandian, (2) Gajendra Pandian, (3) Ramana



Gopal, (4) Ganesa Kunjari Nachiyar and (5) Vijaya Chandrasekara Nachiyar. A partition was effected between the legal heirs of Ponnaiya Samy Thevar in the year 1970 and the said extent of 5 Acres and 5 Cents in S.No. 147/1 was allotted to the share of Gajendra Pandian and he was enjoying the same by paying necessary taxes. Later, the said Gajendra Pandian sold 2.5 Cents to 3<sup>rd</sup> parties and retained 3 Acres and was enjoying the same. The said extent was sub-divided as S.No. 147/1A1A and patta No.752 was granted in his name. But, the names of defendants 5 to 12 were wrongly included in the said patta as joint owners. The said Gajendra Pandian died leaving behind these plaintiffs and one Amudha Nachiyar, mother of the 7<sup>th</sup> plaintiff. These plaintiffs and the said Amudha Nachiyar enjoyed the property jointly. The said Ganendra Pandian, during his life time gifted the said property, to some of his daughters under a registered settlement deed dated 10.08.2008 but later cancelled the same by way of another registered cancellation deed on 14.06.2011. Taking advantage of this, the plaintiffs 2 and 4 attempted to sell the property and so the plaintiffs 3 and Amudha Nachiyar, the mother of 7<sup>th</sup> plaintiff filed a suit for partition in O.S. 24/2014 before the District Court, Ramanathapuram. Preliminary decree was passed granting 1/7th share each to these plaintiffs and Gajendra Pandian on 22.01.2015. Thereafter, they compromised the dispute and divided the property among themselves in accordance with the



preliminary decree and patta was issued in their name. But, the said patta was cancelled by the 2<sup>nd</sup> defendant on petition filed by the 4<sup>th</sup> defendant without any enquiry. In the said order dated 14.11.2016, it is mentioned that a portion of the property was gifted to the 4<sup>th</sup> defendant. The said gift deed is not connected to the suit property. Hence, the said Amudha Nachiyar, the mother of the 7<sup>th</sup> plaintiff filed Writ Petition (MD) No. 23060/2016 before the Hon'ble Madurai Bench of Madras High Court. The said writ petition was dismissed by giving liberty to the parties to file a suit for appropriate relief. Later, the said Amutha Nachiyar died on 10.12.2017 leaving the 7<sup>th</sup> plaintiff as her only daughter. Gajendra Pandian also died on 16.08.2020. As of now the plaintiffs are enjoying the suit property peacefully. But the employees of defendants 1 to 4 proclaimed that they would make construction in the property taking benefit of the gift deed. Hence, the plaintiffs filed the suit for declaration and injunction against the said defendants. Since joint patta was issued wrongly in the names of defendants 5 to 12, they are also impleaded as formal parties. An advocate commissioner was appointed and he has filed a report and plan showing the suit property as a vacant site and the suit is pending for trial. While so, the defendants 1 to 4 are now attempting to make constructions in the suit property and are mobilizing the construction materials since 15.05.2025. Being Government authorities, the defendants could be prevented only by



an order of this Court. Therefore, the petitioners have filed this petition seeking temporary injunction restraining the respondents from making any constructions in the suit property till the disposal of the suit.

**3. The 4<sup>th</sup> respondent has filed counter and the other respondents have not filed any counter. The contention of the 4<sup>th</sup> respondent in brief:**

The suit property did not belong to Ponnaiah Samy Thevar and so either Gajendra Pandian or his legal heirs do not have any right or the title over the suit properties. The details of the suit in O.S. 24/2024 are not known to the respondent and the said suit was filed collusively by the parties and so have been compromised. The petitioners never enjoyed the suit properties. The suit property in S.No. 147/1A1A belonged to Seeni Mohammed Rawthar S/o. Nainar Mohammed Rawthar by virtue of purchase from K.S. Muthu Chellapandi Thevar. The said property was allotted to the share of Muthu Chellapandi Thevar in O.S.14/1953. An extent of 3 Acres 60 Cents were sold to Seeni Mohammed Rawthar by the said Muthu Chellapandi Thevar in 1957 and after his death, his daughter Nubuvathu Beevi inherited and enjoyed the same. However, patta was granted in the name of Seeni Mohammed to an extent of 2 Acres and 60 Cents only though he had purchased 3 Acres and 60 Cents. Later, the said Nubuvathu Beevi sold the said extent to Arulraj on 13.03.2008 and who in turn sold it to Nizam Begam on 23.03.2010. The said Nizam Begam



enjoyed the said extent along with her other properties totally extending 6 Acres and 10 Cents. She had gifted 5 Acres out of the said total extent of 6.10 Acres to the Government for construction of Girls High School at Pudumadam by way of a registered gift deed dated 22.02.2011 and since attempts were made by 3<sup>rd</sup> parties to encroach the property. Nizam Begam gave petition to the authorities to prevent the same and thereby the Revenue Divisional Officer has taken steps and granted patta in the name of Pudumadam Government Girls High School on 25.01.2021. The plaint filed by these petitioners was dismissed for default and the earlier petition for injunction was closed. Now the suit was restored and is ripe for trial. These petitioners have filed this petition to prevent commencement of trial and to prolong the same. The property does not belong to the petitioners and is not in their possession. Construction is being done for the benefit of Girl students of the villages in and around Pudumadam and since it is being done for the benefit of general public. It cannot be prevented. The Contractor who is making constructions is a necessary party and since he is not impleaded the petition is bad for non-joinder of necessary parties. There is no prima facie case, and the balance of convenience is not in favour of the petitioners. Hence, he prays to dismiss the petition.



4. Point for consideration in this petition is “ **Whether the petition be allowed and be entitled for temporary injunction as prayed for?**

5. Ex.P.1 to Ex.P.17 were marked on behalf of the petitioners.  
Ex.R.1 and Ex.R.2 were marked on behalf of the respondents.  
Ex.C1 to Ex.C3 was marked as Court documents.

6. Heard the arguments on both sides.

7. **Answer to Point:**

7.1 The suit is filed by the plaintiffs seeking the relief of declaration and injunction. They have claimed title through Ponnaiah Samy Thevar in whose name Ex.P1 and Ex.P.2 are recorded. As per Ex.P1, Ex.P.2 and Ex.P.3, the entire extent in S.No. 147/1 stood in the joint names of 6 persons. The petitioners have claimed that the property was allotted to the share of Ponnaiah Samy Thevar and thereafter it was allotted to Gajendra Pandian. But no details of the said partition are given by the petitioners. However, they have claimed that a preliminary decree was passed by the District Court, Ramanathapuram in O.S. 24/2014 wherein the plaintiffs were allotted 1/7th share each in the suit properties. The Judgment and Decree is filed as Ex.P.5 and Ex.P.6. It is no doubt that the said suit in O.S. 24/2014 was in respect of Survey No.147/1 which was sub divided as S.No.174/1A1A for which the old patta number was 752. However, the



extent mentioned in the said decree is only 3 acres. It is also found that the eastern boundary of the said 3 Acres is mentioned as the property belonging to Nubuvathu Beevi and the property sold by Gajendran Pandian.

7.2 Be that as it may, the defendants have claimed that the suit property belonged to Muthu Chella Pandi Thevar by way of partition as alleged in O.S. 14/1953. He is said to have sold 3 Acres 6 Cents to Seeni Mohammed under sale deed dated 06.08.1957, a copy of which is filed by the petitioners as Ex.P.13. A careful perusal of the said sale deed reveals that no survey number is mentioned in respect of the property sold under Ex.P.13. However, the western boundary is shown as the property belonging to Ponnaiah Samy Thevar. The relevant recital reads as “பொன்னையா சாமி தேவர் 9 ல் 1 பாக புஞ்சைக்கும் கிழக்கு” . Even though, the survey number is not mentioned correlating the western boundary mentioned in Ex.P.13 and the eastern boundary noted in Ex.P.6 decree in O.S. 24/2014 clearly shows that the property claimed by the petitioners and the property claimed by the respondents are different properties lying adjacent to each other. The entire extent of 30 Acres comprised in S.No. 147/1 and S.No.147/2 and it was owned by various persons jointly, all the legal heirs of those persons would claim share in the said extent. Unless, the S.No.147/1 is measured and demarcated in accordance with the



respective title documents, it cannot be ascertained which portion belongs to which party. Even though, the Commissioner has filed Report and Plan Ex.C1, Ex.C2 and Ex.C3, they do not reveal the exact portion which belongs to these petitioners. It is also noted that the entire extent in S.No. 147/1A1A is shown as 1.05.5 Hectares which roughly comes to 2 Acres and 60 Cents. But since the property sold to Seeni Mohammed is not the property belonging to Ponnaiah Samy Thevar, the defendants who claim through Seeni Mohammed and his legal heirs cannot have any right over the said extent. However, since the entire extent is not demarcated and sub-divided according to the respective properties of the parties, it cannot be ascertained as to which portion belongs to which party. It is equally important to note that even though the defendants have filed Ex.R1 the gift deed executed by Nizam Begam alone is filed, no supporting documents to show the correct survey number which was purchased by her are not filed by the respondents. They have also not filed the Judgment and the Decree copy in O.S. 14/1953 under which Muthu Chella Pandi Thevar was allotted share so as to ascertain the exact portion and S.No. in which was allotted to him. Even otherwise, the boundaries shown in the parent document of the year 1957 Ex.P.13, the property purchased by Seeni Mohammed is lying east of the property of Ponnaiya Samy Thevar. Therefore, both the properties are not same.



7.3 Therefore, this Court is of the considered opinion that the total extent should be measured and surveyed and demarcated with respect of the original title deeds of respective parties and only then the identity and the juxtaposition of the suit property could be found out.

7.4 In these circumstances, it is now to be decided whether the petitioners are entitled for injunction against construction of a School in the suit property. The defendants have claimed that the property was gifted to the Government for the purpose of construction of a Girls High School. Accordingly, they have started construction of the said Government Girls High School which would cater to the needs of the girls belonging to the villages in and around Pudumadam. The photos filed by the petitioners under Ex.P.17 also show that the construction is commenced. It is relevant to note that after the amendment of the Specific Relief Act in the year 2018 section 41 (ha) was introduced which reads as under.

**Section 41 (ha) of the Injunction when refused:**

- a). . . . .
- b). . . . .
- c)...

***(ha) “ An injunction cannot be granted - if it would impeded or delete the progress or completion of any infrastructure***



*project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project”.*

It is also relevant to note that the schedule of the Act contains the category of infrastructure projects that are covered by section 20A and section 41(ha). Accordingly, Sl.No.5, the contain the category of social and Commercial Infrastructure Education Institutions (capital Stock). Therefore, no temporary injunction can be granted against the construction of a Government school which is done for the benefit of general public, as per section 41 (ha) of Specific Relief Act.

7.5 The learned counsel for the petitioner would argue that if the construction is made and the suit is decreed in favour of the petitioners, they would be put to irreparable loss and their valuable right to property would be affected. He also contended that it would lead to multiplicity of proceedings and it would be difficult for them to recover the possession of the property. In this regard, this Court has to note that when a construction project is made by the Government for public cause and for the benefit of girl students, the same cannot be prevented by way of an interim injunction. The perceived loss or hardships likely to be caused to the petitioners can be compensated by way of cost or damages even, if the suit



is decreed in their favour. It is to be considered that the loss that would be caused to the respondent if the construction of the school is stopped would be larger than the loss that would be caused to the petitioners if injunction is not granted. So also, granting of injunction would affect the general public and more particularly the education of the girl students of the surrounding villages. Therefore, this Court finds that no irreparable loss would be caused to the petitioners and even if any could be compensated by way of cost.

**7.6** Therefore, this Court is of the considered opinion that the petitioners are not entitled for relief of temporary injunction. This point is decided accordingly.

In the result, the petition is dismissed with cost.

Dictated to Executive Assistant and transcribed and typed by her in computer, corrected and pronounced by me in open Court on this the 17<sup>th</sup> day of September 2025.

Principal District Judge,  
Ramanathapuram.

**List of witnesses on either side : NIL**

**List of documents on the side of the petitioner**



01. - Xerox copy of settlement records.
02. - Xerox copy of record of Survey number.
03. - Xerox copy of 10(1) Adangal
04. 10.03.2008 - Xerox copy of Gift deed.
05. 22.01.2015 - Certified Xerox Copy of Judgment in O.S.24/2014.
06. 22.01.2015 - Certified xerox copy of decree in O.S.24/2014.
07. 10.01.2015 - Proceedings of the R.D.O.Ramanathapuram.
08. 10.01.2015 - Patta transfer order
09. 14.11.2016 - Proceedings of R.D.O. Ramanathapuram.
10. 30.11.2016-- order of the W.P.(MD) No. 23060 of 2016.
11. 13.12.2017 - Death Certificate of Amudha Nachiyar.
12. 17.08.2020 - Death Certificate of Gajendra Pandian
13. 07.08.1957 - Xerox copy of sale deed.
14. 13.03.2008 - Certified xerox copy of sale deed.
15. - - Xerox copy of record regarding survey Number.
16. 22.10.2009 - Xerox copy of Patta.
17. - - Photos with pen drive.

**List of documents on the side of the Respondents**

01. 22.02.2011 - xerox copy of Gift deed

TNRM010032902020



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02. - - Xerox copy of patta

**List of Court Documents**

01. 04.02.2021 - Commissioner's Report.
02. - - Commissioner's Plan No.1
03. - - Commissioner's Plan No.2

P.D.J.

Principal District Court  
Ramanathapuram  
I.A.No.18/2025  
in O.S. 45/2020  
Draft/Fair Order  
Dated: 17.09.2025