

**In the Court of District Munsif, Mudukulathur**

**Present : Ms.J.C.Aparna, B.A, L.L.B.,**

**District Munsif,**

**Mudukulathur.**

**Wednesday the 18<sup>th</sup> day of June 2025**

**I.A.No.136/2022**

**in**

**O.S.No.39/2020**

Veerapathiran

..... Petitioner/Plaintiff

*/VS/*

Mohammed Najeeb

..... Respondent/Defendant

This petition came on 05.06.2025 before this court for a final hearing in the presence of Thiru.K.Umasankar, Learned Counsel for the Petitioner/Plaintiff and Thiru.V.Pothu Maharaja, Learned Counsel for the Respondent/Defendant and upon hearing both sides arguments and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

### **ORDER**

This petition has been filed under Order 39 Rule 2-A (1) of CPC for breaching of injunction order.

#### **2. The contention of the Petitioner/Plaintiff in brief:-**

The petitioner herein is the plaintiff in the main suit, which has been filed for the relief of permanent injunction, restraining the defendants and their men, agents and for other incidental reliefs. In which temporary injunction was

granted by this court in I.A.No.128/2020. The defendant is attempting to interfere with the plaintiff's peaceful possession by claiming that he is in absolute possession of the suit property by way of a sale deed. This attempt clearly shows that they are disobeying the order of temporary injunction. Hence this petition is filed to arrest the respondent and put him in civil prison. The petitioner is ready to bear any costs. Hence the petition.

### **3. Brief averments of the Respondent/Defendant in brief:**

It is admitted that an order of temporary injunction as prayed for in I.A.No.128/2020 has been granted by this court. The respondent never infringed the order of this court. Since the main case is posted for trial, the plaintiff has been continuously praying for adjournments and now the main suit is posted for trial with no further adjournment. Hence the petitioner has filed this petition to delay the suit proceedings. Also the respondent runs a jewelry business in Madurai, if he had interfered with the peaceful possession, the plaintiff would have filed a complaint with the police. The petitioner with an ulterior motive is continuously delaying the case proceedings. This petition has been filed only to harass the respondent.

### **4. Point for consideration:-**

Whether the respondents had committed breach of temporary injunction order dated 08.01.2021 in I.A.No.128/2020 in O.S.No.39/2020?

Both side enquiry heard, on the side of the petitioner he examined himself as PW1, Ex.P1 to Ex.P15 marked. On the side of respondents, the 1<sup>st</sup> respondent examined herself as RW1, and no documents were marked on the respondent's side.

**5. Answer to the Point:-**

The learned counsel appearing for the petitioner submitted that the respondents had disobeyed an order of temporary injunction in I.A.No.128/2020 in O.S.No.39/2020, dated 08.01.2021 and is interfering with the peaceful possession of the petitioner by stating that the respondent has purchased the suit property by way of a sale deed. To support his contention, he took the attention of this court towards the cross-examination of first respondent as RW1 and pointed out that he has admitted to having purchased the suit property about one and half years ago. But he also admits to the fact that he has let out the suit property to the petitioner for cultivating.

6. To the contrary the learned counsel appearing for the respondents' contended that there is no specific pleading in this petition and affidavit regarding the breach as claimed by the petitioner to be the disobedience of temporary injunction in I.A.No.128/2020 and also states that the exhibits marked by the petitioner are in no way relevant to the present petition.

7. It is admitted by both parties that schedule property belongs which is to one Mr. Aliyar and Mr.Abdulla who are among the legal heirs of the original owner Periyamera Rowther. Further the case of the petitioner is that the above said persons let him cultivate in their lands, the scheduled property in return of payment of a share in the proceeds of the same. The petitioner admits in his

averments that the above said persons are dead and he is now paying the share in the proceeds to the legal heirs of Aliyar and Abdulla. The case of the respondents is that the 1<sup>st</sup> respondent's father who is also one of the legal heirs of the original owner Periyamera Rowther has obtained the Item No 1 by way of an oral partition between them and his wife the 2<sup>nd</sup> respondent is the legal heir of the above mentioned Abdulla.

8. In such circumstances, the petitioner has filed I.A.No.128/2020, to restrain the respondents from interrupting the peaceful possession of the scheduled properties by the defendants, their men or agents, not to trespass forcefully and also not to alienate the properties to 3<sup>rd</sup> parties till the disposal of the suit.

9. In that I.A.No.128/2020 on 08.01.2021, an temporary injunction was granted by restraining the respondents/ defendants from interrupting the peaceful possession of the scheduled properties by the defendants, their men or agents, not to trespass forcefully and also not to alienate the properties to 3<sup>rd</sup> parties after deciding the same on merits till disposal of the main suit.

10. This petition under order 39 rule 2A of CPC was filed on 28.10.2022, the burden is upon the petitioner to establish the respondents have breached or disobeyed the order of ad-interim order dated 08.01.2021 in I.A.NO.128/2020. The petitioner must establish the disobedience committed by the respondents beyond all reasonable doubts equivalent to criminal proceedings.

11. The petitioner has relied on Ex.P1 to Ex.P15 but not one of such documents show any trespassing, interruption of his peaceful possession or any alienation of the suit properties by the respondents. It is simply stated by the petitioner that the respondents are trying to interrupt his peaceful possession by stating that he has purchased the suit properties. On perusal, the Ex.P8 is also the photographs of the petitioner cultivating in the suit properties. Ex.P9 and Ex.P10 are the pattas mutated in the name of the respondents in respect of the suit properties which are mutated long before the filing of the suit in the name of the respondents as admitted by the petitioner in the plaint. The only other point of explaining the possible contempt would be the deposition of RW1 cross where he admits that he purchased the Item No 2 of the suit property about one and half years back in his deposition dated 28.11.2023.

12. This petition for contempt was filed on 28.10.2022. The reasons stated in the petition are vague and with no specification as to the date of breach, this court is not convinced there is a contempt of this court order in the as to punish the respondents by sending them to civil prison. Further from the perusal of the pleadings it is seen that the 2<sup>nd</sup> respondent on whose name the patta in respect of 2<sup>nd</sup> item in the suit schedule is mutated is the daughter of the Abdulla and the 1<sup>st</sup> respondent's wife. No explanations has been given in regard to why the 1<sup>st</sup> respondent would purchase the 2<sup>nd</sup> schedule property from his wife by the

petitioner. Also the temporary Injunction was granted against the defendants not to alienate the suit properties to third parties until the disposal of the main suit in addition not to interrupt with the peaceful possession. The petitioner could also have produced any documents of the said sale if it were true. Also no complaint was also given in respect of any possible interruption or about on which date the alleged interruption was made. And instead of going on with trial, the petitioner has filed this petition and marked the documents irrelevant to the petition. Under such circumstances, this court is not convinced that there is a breach or disobedience of order dated 08.01.2021 in I.A.No.128/2020.

In the result, this petition is dismissed. No cost.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 18<sup>th</sup> day of June 2025.

**District Munsif,  
Mudukulathur.**

**Petitioner side witnesses :**

PW1- Veerapathiran

**Petitioner side documents :**

Ex.P1 - Computerized patta in the name of Abdulla

Ex.P2 - Computerized patta in the name of Aliyar

Ex.P3 - 1427, 1428,1429 Pasali revenue receipt (Original)

- Ex.P4 - 1427, 1428,1429 Pasali revenue receipt (Original)
- Ex.P5 - 10(1) Adangal given by the VAO (Xerox)
- Ex.P6 - A Register for the suit properties
- Ex.P7 - FMB for the suit properties
- Ex.P8 - Photographs showing the petitioner cultivating the suit properties
- Ex.P9 - Computerized patta in the name of Mohamed Najeeb
- Ex.P10 - Computerized patta in the name of Ibrahim Gani
- Ex.P11 - Computerized patta in the name of Syed in S.No.312/3
- Ex.P12 - Nel Virpanai Adangal in the name of petitioner's wife  
in S.No.312/3
- Ex.P13 - Computerized patta in the name of Mohamed
- Ex.P14 - Nel Virpanai Adangal in the name of petitioner's wife  
in S.No.312/3
- Ex.P15 - Decretal order in I.A.No.128/2020 in O.S.No.39/2020

**Respondent side witnesses :**

RW1- Mohammed Najeeb

**Respondent side documents :**

**Nil**

**District Munsif,  
Mudukulathur.**

