

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

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

**District Munsif,**

**Mudukulathur.**

**Thursday the 19<sup>th</sup> day of February 2026**

**I.A.No.02/2025**

**in**

**O.S.No.49/2025**

Shakira Banu

..... Petitioner/Plaintiff

*/VS/*

Jakubar Nisha

..... Respondent/Defendant

This petition came on 19.01.2026 before this court for final hearing in the presence of Thiru.K.Alagarsamy, Learned Counsel for the Petitioner/Plaintiff, Thiru.K.Mangalanathan, Learned Counsel for the Respondent/Defendant and upon hearing both sides enquiry 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 1&2 of Civil Procedure Code for the relief of temporary injunction restraining the respondents, their men and agents from making any constructions on the suit property till the disposal of the suit.

**2. Brief averments of the Petitioner/Plaintiff in brief:-**

The petitioner is the plaintiff in the main suit. The suit property originally belonged to one Sakkaria and was acquired by Seeniammal from the above

mentioned Sakkaria by way of sale in Document 1665/1997. The petitioner by way of sale acquired the suit property from Seeniammal, through the document number 14/1997. The petitioner demolished the old house and built a new house leaving 2 feet on the west side as a vacant space for maintenance around the house. The defendant is the owner of the property west of the suit property. When the petitioner was staying at his daughter's house in Mudukulathur, the respondent tried to encroach on the entire 2 feet of land on the west side by building a wall to a height of about 3 feet. A complaint was filed with the police. But the defendant has continued to encroach on the property without stopping the construction work. Therefore, it is prayed that the Honorable Court may grant an interim injunction restraining the defendant from making any constructions on the suit property until the conclusion of this case.

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

The respondent denies the allegations in the petition as fabricated. The respondent by way of sale has acquired a total of 804 square feet of land, measuring, 18 ½ in the east west and 43 ½ in the north south on 06.08.1998 from Noorjagan and has acquired a 637 ½ square feet of property on 23.03.2005 from Zeenathu Ammal through a registered sale deed and is in the enjoyment of the same. The respondent has built a house on the northern part of the property acquired by him and is constructing a house in continuation of the house already built on the northern part. The property on which the respondent is constructing has no connection with the property of the petitioner. The property of the petitioner is east to the respondent's property. The respondent has not made any encroachment in the petitioner's property. The petitioner has filed this suit with the intention of stopping the construction work being carried out by the respondent by making false allegations. The court cannot grant the main relief in an interlocutory application. Hence this petition is liable to be dismissed.

**4. Point for consideration:-**

Whether the petition be allowed and the relief be granted as prayed for?

Heard both sides. On the side of petitioner Ex.P1 to P7 were marked and on the side of respondent Ex.R1 to R3 were marked.

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

5.1. The case of the petitioner/plaintiff is that he purchased the suit property from one Seeniammal by way of sale deed in document number 14/1997 and is in possession and enjoyment of the same by constructing a house and leaving a 2 feet vacant space in the western side for maintaining his property. Meanwhile the respondent/defendant is the adjacent land owner (extent 1441 ½ ) west of the suit property. Both the parties have produced the respective title deeds and they have been marked as Ex.P1 and R1, R2 respectively. The respondent/defendant also admits that his property is located west of the petitioner's property. The dispute arose when the respondent/defendant is constructing a house and the petitioner/plaintiff alleges that the respondent/defendant is trying to construct enclosing the 2 feet vacant space left by the petitioner. Since it is admitted that the parties are adjacent land owners and there is an obvious boundary dispute and the fact that the respondent/defendant admits the ongoing constructions, the balance of convenience is tilted in the favour of the petitioner/plaintiff. The respondent/defendant contends that he is carrying on constructions only within his property, whereas the petitioner/plaintiff states that, the respondent/defendant is making constructions in the 2 feet vacant space left by him. The same can be decided only in trial.

5.2. The respondent/defendant counsel contends that the main relief cannot be granted in an interlocutory application. But this present petition is filed only in respect of not to make any constructions in the suit property till the

disposal of the suit. Granting the present relief will not amount to decreeing the main suit. In the light of the above discussions, the court is of the conclusion that the balance of convenience is tilted in the favour of the petitioner/plaintiff as admittedly the respondent/defendant is carrying on with the constructions, irreparable loss and hardships will be caused to the petitioner/plaintiff. Hence in the light of the above discussions this petition is allowed, and the petitioner/plaintiff is to cooperate with the trial as temporary injunction have been granted in their favour. No order as to costs.

6. In the result, this petition is allowed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 19<sup>th</sup> day of February 2026.

**District Munsif,  
Mudukulathur.**

**List of Petitioners side witness : Nil**

**List of Petitioners side Documents:**

Ex.P1	17.01.1997	Sale deed executed by Seeniyammal infavour of Jakubar Nisha- Xerox copy
Ex.P2	17.12.2025	Patta for the suit property- Online copy
Ex.P3	17.12.2025	Encumbrance Certificate for the suit property- Online copy
Ex.P4	-	House Tax Receipt in the name of petitioner/plaintiff- Original
Ex.P5	10.12.2025	Complaint given by the Shakira Banu- Xerox copy
Ex.P6	-	Guideline value for the suit property- Online copy
Ex.P7	-	Photo showing the construction made by the defendant on the suit property

**List of Respondent side witness : Nil**

**List of Respondent side Documents:**

Ex.R1	06.08.1998	Sale deed executed by Noorjagan infavour of Jakubar Nisha- Certified copy
Ex.R2	23.03.2005	Sale deed executed by Zennathu Ammal infavour of Jakubar Nisha- Certified copy
Ex.R3	05.01.2026	Patta in the name of Jakubar Nisha- Online copy

**District Munsif,  
Mudukulathur.**