

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT: Thiru. A. DHARANIDHARAN, B.Sc., M.L., M.A., LL.M.

District Munsif, Devakottai

Monday, the 27th day of June, 2022

I.A. 03/2022

in

O.S. No. 36/2018

- | | |
|----------------|-------------------|
| 1. Mayazhagu | |
| 2. Sundarambal | |
| 3. Boominathan | --- |
| | Petitioners / |
| | 3 to 5 Defendants |

/Vs/

- | | |
|---------------------------------------|-----------------------------|
| 1. Sakthi @ Balasubramani | --- |
| | 1 st Respondent/ |
| | 2 nd Plaintiff |
| 2. The District Collector, Sivagangai | |
| 3. Tahshildar, Devakottai. | --- |
| | 2,3 Respondents / |
| | 1,2 Defendants |

This petition having been finally heard on 14.06.2022 in the presence of Mr. S. Sornaprakash, the learned counsel for the Petitioners/3 to 5 Defendants and Mr. T. Sivananandan, the learned counsel for 1st Respondent/2nd Plaintiff and upon hearing the arguments of both sides and after perusal of the entire records and having stood over for my consideration till this day, this Court delivers the following:

ORDER

This is a petition filed under Order 39 Rule 1 & 2 r/w Sec 151 of Civil Procedure code seeking Ex-parte ad-interim injunction against the plaintiff

restraining them not to interfere in the peaceful possession and enjoyment of right over the petition-mentioned property till the disposal of the suit.

2. The averments set out in the petition/affidavit by the petitioners are as follows:

2.1 The petitioner is the 3rd defendant in in the main suit and files this petition on behalf of the 1st and 2nd petitioners / 4th and 5th defendants. The petitioners states that the plaintiffs have not stated about the survey number and simply stated as 3 cents comprising of New Survey No. 393. The petitioner states that the metes and bounds stated were wrong. The petitioner further states that patta was granted to the 1st plaintiff for Survey No. 393/11, 393/18 based on manaivari thoraya patta. Similarly the patta was granted to the 3rd and 4th defendants for Survey No. 393/20, 393/21 which the plaintiff is aware of. The petitioner further states that the I.A. No. 551/2018 filed by the plaintiffs was dismissed on 09/10/2018. On 25/01/2022, the 2nd plaintiff along with her men tried to interfere in to the petition mentioned property. Hence the present petition.

3. The averments set out in the counter filed by the respondents/plaintiffs are as follows:

3.1 The respondent denies almost all the averments stated in the plaint. Save those allegations that are expressly and specifically admitted hereunder, this respondent denies all other allegations in the petition as false, untenable, and devoid of merits. The respondents states that the legal heirs of the 1st plaintiff was not impleaded as parties after his demise and this petition is not sustainable.

4. **Now the point for consideration is, whether this petition seeking ad-interim injunction is to be allowed or not?**

5. No documentary evidences were let in on both the sides.

6. Arguments were heard from both the sides and contended by reiterating the averments made in the petition and affidavit.

7. This Court tries to find if there are three necessary ingredients in this petition for ad-interim injunction which are as follows: (i) Prima facie case (ii) Balance of convenience and (iii) Irreparable loss to the petitioners which are not compensated in terms of money.

8. This court would refer the case of *M. Gurudas and others Vs Rasaranjan and others AIR 2006 SC 3275*, where the Hon'ble Supreme Court of India had opined "...while considering an application for injunction, the Court would pass an order thereupon having regard to prima facie, balance of convenience and irreparable injury..."

9. Prima facie literally means, on the face of it. *In Martin Burn Ltd. Vs R.N.Banerjee in 1958 AIR 79*, while discussing the meaning of the "Prima facie case" the Court said "

10. A Prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence which is led in support of the same were believed. While determining whether a prima facie case had been made out the relevant consideration is whether the evidence let in was possible to arrive at

the conclusion in question and whether that was the only conclusion which could be arrived at on that evidence.

12. Further, balance of convenience means that the comparative mischief or inconvenience which is likely to ensue from withholding the injunction, will be greater than that which is likely to arise from granting it. By applying this principle, the Court has to weigh the amount of substantial mischief that is likely to be done to the applicant, if the injunction is refused and compare it with that which is likely to be caused to the other side, if the injunction is granted.

13. When the Court is granting an interim injunction order, Court should take into consideration, prima facie case, balance of convenience, irreparable loss and injury caused to other parties and conduct of parties (*In Re Makers Development Services Pvt Ltd Vs Visvesvaryya Industrial Research and Dev Centre*) (2012-2-LW 103).

14. From the perusal of all the records filed by the petitioners at the time of enquiry, this Court is of the considered opinion that the petitioners had not made out the prima facie case. This is a petition which had been filed for the relief of ad-interim injunction till the disposal of the suit. From the cumulative effect of the above discussions and also the elaborate consideration of the Arguments extracted Supra, I am of the considered view that the petitioner Could not make out a prima facie and balance of convenience and irreparable hardship at this stage, which can be decided in the main suit. Accordingly the point is answered in negative.

Hence this petition is dismissed. No order as to costs.

This Order was directly typed by me in my official laptop, corrected by me and pronounced by me in the open Court on this the 27th day of June, 2022.

**District Munsif,
Devakottai.**

Annexure:

List of witnesses on the side of the Petitioner/defendants
NIL

List of documents on the side of the Petitioner/defendants
NIL

List of witnesses on the side of the Respondents/Plaintiffs
NIL

List of documents on the side of the Respondents/Plaintiffs
NIL

**District Munsif,
Devakottai**