

**IN THE COURT OF SUBORDINATE JUDGE, MANAMADURAI,
PRESENT: TMT. R. GEETHA, B.A., B.L.,
SUBORDINATE JUDGE, MANAMADURAI,
Friday this the 22nd day of December 2023**

IA.No.1/2019

in

O.S.211/2019

- - - - -

S. Pandi

..Petitioner/Plaintiff

..Vs..

1. V. Rasu Udaiyar

2. V. Tamilmaran

3. P. Radhakrishnan

4. K. Kasinathan

5. P. Thangaiya

6. R. Veeraiya

7. S. Ramanathan @ Raman

..Respondents/Defendants

This Petition is coming before me on 31.10.2023 for final hearing in the presence of Thiru. T. Josuva, Advocate for Petitioner/Plaintiff and Respondents/Defendants are Set as Exparte and upon hearing enquiry of Petitioner side and perusing records, having stood over till this day for consideration of this court and delivered the following:

ORDER

This Petition has been filed under Order 39 Rule 1 of CPC

2) Sum and substance of Affidavit filed by the Petitioner/Plaintiff:

In this Petition, Petitioner stated that he has filed a suit for Permanent Injunction to restrain the Defendants/Respondents and their men, agent interfering with the construction activities of the Petitioner mentioned temple in which works were partly. Out of his pocket that he has spent nearly 1.5 crores after demolishing the temple and raised the same to a particular stage, the defendants along with others

contributed only Rs.2,00,000/- and they intended to collect money in the form of donation by using donation books under the guise of temple construction.

He further stated that he has stoutly opposed that since the collection of donation by donation books will yield to financial irregularities and disputes will arise in the village. Having grudge over his opposition to collect donation through donation book the defendants are making serious threats to collapse the construction activities being carried out by him. Now another 2.5 crores is required to complete the temple construction and I being an ardent devotee having high spirituality as his life style is carrying out the construction of the temple in his own sources.

He further stated that if the temple construction is collapsed or deteriorated it will cause much hardship and irreparable loss not only to him but also to the genuine devotees of the temple. The defendant's false complaint lodged with the police proved nothing and they openly declare that no body will be allowed to carry out the construction works of the temple without they being distributed with donation books. The defendants are having muscle power and capable of restraining the sculptor and workers. Architect from carrying out the construction work with the help of their hooligans and henchmen. Prima facie case and balance of convenience lie on his side.

3) On the side of the Respondents counter not filed and set as Ex parte.

4) Ex.P1 to Ex.P6 were marked on the side of the Petitioner.

5) Heard Petitioner side.

6) Points for Consideration:

1) Whether the Petition is allowed or Not?

7) On perusal of records it is found that the Petitioner/Plaintiff filed the main suit for Permanent Injunction restraining the Respondents/Defendants from in any way

interfering with the construction work made in Arulmigu Sri Veerapandi Ayyanar Temple situated at ayyamapatti Village, Salaigramam Post, Ilayangudi Taluk.

8) According to Petitioner/Plaintiff that the Property Sri Veerapandi Ayyanar Temple is the family deity Temple belongs to the Petitioner, Respondent and other peoples of village and the Temple is very old and in dilapidated condition and it has been decided to demolish the temple and to construct new one and the Petitioner has been deputed by all to carryout to raise the Temple and the Petitioner has taken incharge to proceeding with the construction and estimation of the construction of the new Temple is four crores and Rs.1.5 Crores was spent by the Petitioner alone. Meanwhile the Respondents insist the Petitioner to collect donation from public and so as to faciliating the Respondents to collect donation in the name of the Temple construction. But the Plaintiff did not yield to their malafide decision and refused to collect donation through donation receipt. However the Petitioner informed to the Respondents to open Bank Account in the name of the temple and whoever desire to donate, will contribute their money through the temple account. So as to enabling devotees and donars are openly known about the donations. But the Respondents having enmity over the Petitioner that he prevent the intention of the Respondents to collect donation from receipts. They falsely complaint against the Petitioner, that he taken over the Kalasam of the Temple and he was in apprehension that the Respondents are interfere in construction work of the Temple. Per Contra the Respondent contented that the construction work were supervised not only by the Petitioner but also by other village elders. The Construction work was started in the year 2003 and over a decade, the construction of the Temple is not yet completed. So the Villagers are not in position to worship the deity. In order to complete the construction work as early as possible the villagers advised to collect donation from the public. But the petitioner with an malafide intention known to him, tried to construct Temple work in personally and refused to get contribution of others.

9) This Petition is a interlocutory injunction and our Hon'ble Apex Court in many decisions held that relevant factors to be considered for grant of Temporary Injunction are existence of Prima facie case, balance of convenience and irreparable loss and injury .

10) Prima facie case would be a finding of fact. The law is well settled that an order of Temporary Injunction granted in favour of the parties is a step in aid to main relief. In case on hand it is not a situation where refusal of Temporary Injunction would frustrate the suit and also it is not a situation where refusal of Temporary Injunction would lead to multiplicity of proceeding.

11) On careful scrutiny of averments of the affidavit it does not make out a Prima facie case and also failed to establish that Petitioner would be put to irreparable loss and injury if an order of Temporary Injunction is not granted.

12) The grant of interlocutory Injunction is an equitable relief and it is a discretionary one. In a decision reported in 2006(5) SCC 282 Our Hon'ble Supreme Court held that the discretion of Court is exercised to grant an Temporary Injunction only when the following requirements are made out by the Plaintiff:-

1) Existence of Prima facie case as pleaded, necessitating protection of Plaintiff rights by issue of Temporary Injunction.

2) When the need for Protection of Plaintiff right is compared with or weighed against the need for protection of the defendant's rights, the likely infringement of defendant's rights. The Balance of convenience tilting in favour of Plaintiff.

3) Clear possibility of irreparable injury being caused to the Plaintiff if temporary injunction is not granted

13) Further it is well settled the main relief can not be granted in interlocutory application. In the case on hand the Petitioner filed the main suit seeking the relief of Permanent Injunction restraining the Respondents from any way interfering the temple construction work. In this interlocutory application also seeking the very

same relief. If granting the relief seeking in this Petition will tentamounts to granted relief sought for as the main relief.

14) From the above considerations this Court comes to the conclusion the Petitioner is not entitled to get Temporary Injuntion as prayed for this application and also concluded that at the Petition umdeserves to be allowed.

Accordingly this Petition is dismissed. No Costs.

Directly dictated to the typist, typed by her, corrected and pronounced by me in the Open Court, this is the 22nd day of December 2023.

Subordinate Judge,
Manamadurai.

Petitioner/Plaintiff side Witnesses : Nil

Petitioner/Plaintiff side and Documents:

Ex.P1	26.01.2008	Boomi Pooja invitation - Original
Ex.P2	04.06.2009	Boomi Pooja invitation - Original
Ex.P3	18.03.2017	Estimation
Ex.P4	19.03.2017	Estimation
Ex.P5	-	Copy of the Ground Plan
Ex.P6	-	Photos and C.D's

Respondents/Defendants side Witnesses and Documents: Nil

Subordinate Judge,
Manamadurai.