

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF AT VALLIYOOR

**PRESENT: THIRU J. ANNS RAJA B.A., B.L.,**  
PRINCIPAL DISTRICT MUNSIF,  
VALLIYOOR.

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

திருவள்ளூர் ஆண்டு 2056 ஸ்ரீவிசுவாச வரடும் புரட்டாசி மாதம் 01ம் நாள் புதன்கிழமை

IA No.02/2025 in O.S.No.77/2025

M.Chitra

... Petitioner / Plaintiff

/Vs/

Esakkiammal

... Respondent /Defendant no.3

This petition has been came up before me for final hearing on 03.09.2025 in the presence of Thiru.S.Raja, the learned counsel for the petitioner, Thiru.P.Ilango Balan the learned counsel for the respondent and this court upon perusal and consideration of oral arguments and the case records and having stood over-under consideration till this date, this court delivered the following

**ORDER**

This petition has been filed for temporary injunction to restrain the respondent and his henchman or agents from making constructions in the suit property till the disposal of this petition.

**1. Brief averments of the Petition :**

Petitioner has filed the suit for partition and permanent injunction. The suit

property belongs to Velu S/o. Aravalai through Patta No.1201. He died intestate leaving behind his wife Velammal, sons Sudalai, Murugan, Mohan as his legal heirs and they enjoyed the suit property jointly.

While that being so Velammal, Sudalai and Murugan has sold the suit property including the share of Mohan in favour of respondent, who is the defendant no.3 in the main suit. The respondent / defendant no.3 is none other than the wife of Murugan.

Petitioner is the daughter of Mohan. So Mohan has executed settlement deed with respect of his share in favour of petitioner through settlement deed dated 13.12.2017 with the consent of Velammal / defendant no.1 and respondent. Further, the defendant no.1 to 3 including respondent assured that when at the time of demolishing the house in the suit property, they will allot the petitioner 1/4<sup>th</sup> share in the suit property.

While that being so, on 26.07.2015 respondent demolished the house which was located in the suit property and begins to construct new house in the property. So, petitioner gave police complaint. But they advised to seek remedy to court. Thereafter, petitioner in the presence of elder persons has demanded to respondent to divide and allot petitioners 1/4<sup>th</sup> share in the suit property. But petitioner refused to divide the property and petitioner is continuing to construct new house in the suit property. So, petitioner has filed the suit for partition claiming her 1/4<sup>th</sup> share in the property. The petitioner has come forward this permanent injunction application to

prevent the respondent from making further constructions in the suit property till the allotment of petitioners 1/4<sup>th</sup> share in the suit property. Hence petition is filed.

## **2. Brief averments of the counter statement filed by the respondent:**

It is admitted that the suit property originally belonged to Velu, who is the father -in -law of this respondents. The said Velu has already established house in the part of the suit property which bears door no.7/5. Apart from the house property there was a remaining land. The said land was orally relinquished by Velu in favour of his brother Nambi. The said Nambi along with his land comprised in S.F.No.469/3A1 and in southern side remaining portion of suit house property has established house which was very well known to the petitioner father Mohan. Even though, the suit property extent is 1.25 cents, but in physical possession there was only 0.75 cents or 3/4 cents. It is true that Velu has been died in the year of 2002, leaving behind his wife and sons.

During the life time of Velu he has obtained 3 cents in S.F.No.467/11C2 from Kathava Rajan. The said 3 cents of land was enjoyed and possessed by Velu's two children Mohan and Sudalai and divided between them as each entitled to 1.50 cents and they constructed houses in the said 1.50 cents.

In the presence of elders on 10.11.2017 Velu's legal heirs has orally partitioned the properties. In that oral partition it was agreed between Velu's legal heirs that who are all in possession and enjoyment of land and house property it will be belongs

to them. The said partition was accepted by petitioner father Mohan. As per oral partition the suit property has been allotted to Respondent husband Murugan. The respondent husband is the drunkard person and lead a wayward life. So, Velu's wife Velammal, son Sudalai and respondent husband Murugan has executed sale deed with respect of suit property in favour of respondent. The petitioner father Mohan has asked to execute signature in the sale deed. Instead of executing his signature in the sale deed dated 16.11.2017 he stated he has no objection in executing sale deed. While that being so, the petitioner father has executed settlement deed dated 13.12.2017 in favour of petitioner as he has share in the suit property. The said settlement deed is only in papers and has not come into force.

With respect of suit property electricity connection stands in the name of respondent. The property tax also was assessed in the name of respondent and she is paying property tax also. The respondent has demolished the old house building in the month of May 2025 itself. The respondent started to make constructions in the suit property by hollow blocks stones in the old house foundations. As mentioned in the petition that respondent begin to construct her new house on 26.07.2025 is totally false. The extend of house construct by respondent is 30 feet length x 10 feet breadth. The photographs filed by the petitioner is morphed one. Before, the filing of suit itself the respondent has already constructed house in the suit property. So, the suit is in fructuous. Hence, petition is to be dismissed.

**Whether the petition is to be allowed (or) not?**

3. On considering, both sides pleadings, arguments it is not disputed by both sides the suit property originally belonged to Velu S/o. Aravalai as per Ex.P1 Patta No.1201. The said Velu during his life time has constructed house in the suit property. The said Velu has been died on 09.05.2002 leaving behind his wife Velammal (defendant no.1) sons Sudalai (defendant no.2), Mohan, Murugan as his legal heirs which was evidenced through Ex.P2 death certificate and Ex.P3 legal heirship certificate. The respondent is the 3<sup>rd</sup> defendant in the suit and she is the wife of deceased Murugan. The defendants no.4 to 7 are children of deceased Murugan and respondent Esakkiammal. The petitioner is the daughter of Mohan.

4. According to respondent the said Velu has constructed house in the part of the suit property which bears door no.7/5. The remaining portion of the suit property was orally relinquished by Velu in favour of his brother Nambi. In the remaining southern side portion of the suit property along with his property comprised in S.F.No.469/3A1, the said Nambi has constructed his house. Even though the suit property extent is shown as 1.25 cents, but, physically 0.75 cents or  $\frac{3}{4}$  cents of property is only located in the suit property. Further, as according to respondent in S.F.No.467/11C2 in 3 cents of property petitioner father Mohan and Sudalai has constructed house in each 1.5 cents of property.

5. On 10.11.2017 there was oral partition taken place between the family members of Velu and as per the oral partition the land and house properties which was possessed and enjoyed by the Velu legal heirs will belongs to them. Hence, the suit property has been allotted to respondent husband Murugan and the each 1.5 cents of house property located in S.F.No.467/11C2 was allotted to Sudalai and petitioner father Mohan. The respondent husband is a drunkard person, So Velammal, Sudalai and respondent husband Murugan has executed Ex.P4 sale deed dated 16.11.2017 in favour of respondent. So, respondent was in possession and enjoyment of suit house property bearing door no.7/5 and house tax was assessed in the name of respondent and she is paying house tax also which was evidenced through Ex.R1 house tax receipt and electricity connection also stands in the name of respondent and she is paying electricity bills also as per Ex.R2 electricity receipts. The respondent in the May 2025 demolished the old house and started to construct new house in the suit property.

6. But, according to petitioner by suppressing petitioner's father 1/4<sup>th</sup> share in the suit house property Velammal, Sudalai and Murugan has executed Ex.P4 sale deed in the name of respondent. So, only the petitioner's father with respect of his 1/4<sup>th</sup> share has executed Ex.P5 settlement deed 13.12.2017 in favour of petitioner. Further, petitioner claims that Velammal, Sudalai and respondent assured that after

demolishing the house in the suit property petitioner 1/4<sup>th</sup> share will be allotted to herself. Now, the respondent has demolished the old house building and begins to construct house in the property. So, only petitioner has come forward with this suit claiming 1/4<sup>th</sup> share and also for permanent injunction restraining the respondent from making construction in the suit property, till the allotment of petitioner 1/4<sup>th</sup> share.

7. However, on considering, the above facts it is founded that the suit property was already allotted to respondent husband Murugan through oral partition dated 10.11.2017 and subsequently through Ex.P4 sale deed also the suit property has been sold to respondent Esakkiammal. However, on perusing Ex.P4 sale deed there was no description about the existence of house property bearing door no.7/5. Further, in the Ex.P5 settlement deed also there was no description about the existence of house property bearing door no.7/5. But both sides admits that about the existence of house in the suit property.

8. On perusing, Ex.R1 house tax receipts it is founded that the house tax receipts was issued in the name of Esakkiammal on 03.09.2021 and 24.07.2025 also and electricity connection also stands in the name of Esakkiammal as per Ex.R2 electricity Bill payment receipt. Therefore, it is clear that already the suit property was orally as well as through sale deed was allotted to Murugan and respondent and respondent was in possession and enjoyment of the property from the year of 2017.

So, the respondent has every right to demolish her old house building and to construct new building in the suit property.

Further on perusing Ex.R3 photographs it is founded that already 75 percentage of house has been constructed in the suit property by the respondent. If truly, the petitioner has right in the suit property on the basis of Ex.P5 settlement deed dated 13.12.2017 she may have filed partition suit in the year of 2017 itself.

9. So, the petitioner has well knowledge that the suit property was enjoyed and possessed by respondent husband and respondent from the year of 2017. So, only the petitioner in plaint as well as in petition has described in long cause title that the respondent was residing in the suit property address bearing door no.7/5. So, petition lacks bonafide and devoid of merits. The ad -interim order given by this court on 01.08.2025 is hereby revoked.

In the result, petition is dismissed. No costs.

This Order dictated to the Steno-Typist, directly typed in computer by her, corrected and pronounced by me in open Court, on 17<sup>th</sup> day of September 2025.

Principal District Munsif,  
Valliyoor.

**Witnesses examined on the side of petitioner:** Nil

**List of Documents on the side of the petitioner:**

<b>Exhibits</b>	<b>Dated</b>	<b>Documents</b>	<b>Type</b>
Ex.P1	-	Patta no.1201	
Ex.P2	-	Death certificate of Velu	Photostat copy
Ex.P3	04.12.2017	Legal heir certificate	Photostat copy
Ex.P4	16.11.2017	Sale deed	Photostat copy
Ex.P5	13.12.2017	Settlement deed	Original
Ex.P6	26.07.2025	CSR receipt	Original
Ex.P7	-	Aadhar Card of Chitra	Photostat Copy
Ex.P8	-	Photos (Nos.7) with CD	Original

**Witnesses examined on the side of respondent:** Nil

**List of Documents on the side of the respondent :**

<b>Exhibits</b>	<b>Dated</b>	<b>Documents</b>	<b>Type</b>
Ex.R1	03.09.2021, 24.07.2025	House tax receipt and Property tax receipt	Original and Online download copy
Ex.R2	02.11.2023	Electricity Bill receipt	Original
Ex.R3	-	Photos (Nos.4) with CD	Original

Principal District Munsif,  
Valliyoor.

Principal District Munsif Court,

Valliyoor

I.A.No.02/2025 in

O.S.No.77/2025

Draft/Fair Order

Dated:17.09.2025