

IN THE COURT OF DISTRICT MUNSIF, POLUR.

TIRUVANNAMALAI DISTRICT.

Present: **Tmt.B.Salma, B.A., B.L.(Hons)**

District Munsif Judge, Polur.

Monday, the 05th day of January 2026

IA.No.1/2022 in OS.No.40/2022

Alamelu

....Petitioner/ Plaintiff.

Vs.

1. Balaji

2. Ramesh

....Respondents/Defendants.

This petition came up before me for the final hearing on 21.07.2025 in the presence of Thiru.Y.P.Ganesan, Advocate for the petitioner and Thiru.M.P.Nethaji, Advocate for the Respondents 1 and 2 and having heard both side arguments and upon perusal of records and evidences adduces on both side and the petition having stood over for the consideration till this day, this court deliver the following:

ORDER

This petition is filed under Order 39 Rule 1 & 2 and sec 151 CPC in order to grant temporary injunction till the disposal of the suit in OS.40/2022 as against the defendants, their men, agents not to demolish the cement plastered roof and wall of the house in the suit properties.

2. The petitioner states that she had filed suit for permanent injunction against the respondents herein for not to demolish the cement plastered roof and wall of the suit properties in OS.40/2022. The petitioner submits that she had purchased the vacant site and garden from one Ramaniyammal on 26.03.1999 for lawful consideration and was in enjoyment and possession of the same without any interruption and mutated the patta to her name in the Revenue documents and was

paying the Government tax receipts and enjoying the said properties. The petitioner submits that the total extent of suit S.No is 31 ½ feet East West and 102 feet in the North South and in the above S.No, she had purchased the eastern side of the property in the suit S.No measuring 14 feet East West and 102 feet in the North South and further submits that in the suit properties, she was in the enjoyment of the country roofed house for about 60 years in the front portion of the suit properties and later constructed a new house in the back side of the suit properties and the petitioner was in enjoyment of both houses.

3. And further submitted that one Arumugam had purchased the property in the Western side of the suit properties from Ramaniyammal on 13.02.1998 for the instant of East West 17 feet and North South 102 feet and further submitted that in order to prove that the vendor of the petitioner and the Arumugam namely Ramaniyammal was the owner of the suit properties and for the properties purchased by the Arumugam, the petitioner submits that she filed the mortgage deed dated 25.08.1938 wherein the father of Ramaniyammal namely Kannaiya Naidu and her grandmother Jayalakshmi had executed the mortgage deed for the total extent of East West 31 ½ feet and North South 102 feet in the suit S.No in the favour of one Duraisamy and similarly the petitioner also filed the mortgage deed dated 12.02.1952 wherein the total extent of the properties was once again mortgaged to one Annamalai Udaiyar.

4. And further submits that the above mortgage was settled by the mortgagor and hence the mortgage deeds original were filed in the present suit and further submits that after purchasing 14 feet East West by the petitioner and 17 feet East West by Arumugam, the left over ½ feet in the suit S.No in the East West direction, there is a cement coated plaster in the roof joining with the wall situated in the eastern side of the suit properties and further submits that the respondents are trying to construct a new house in the vacant site situated in the eastern side of the suit properties and further submits that the respondents are having no rights over the suit properties measuring 14 ½ feet East West and 102 feet North South and further submits that the defendants are tried to demolish the wall in the eastern side of the suit properties and also caused damage to the wall by constructing plinth the beam

by using the Iron rods on Last week of February 2022 and further submits that and also damaged the roof upon the said wall belonging to the petitioner and which was also tried to demolish by the respondents which was thwarted by the petitioner with much difficulties and further submits that if the country roof is demolished and damaged the house in the suit properties will be damaged by the rain water and further submits that photographs of the said damage caused by the defendants is filed herewith and even after convening panchayat, the defendants did not abide to the panchayat and during the 1st week of March 2022, the respondents were threatening to demolish the cement plaster over the country roof and the wall and further submits that hence it is necessary to grant temporary injunction till the disposal of the suit, hence this petition.

5. The respondents counsel filed memo to adopt the written statement as Counter in this petition and stating that the petition is not maintainable either in law or on facts and all the facts stated in the petition are all false and the petitioner is liable to be put to strict proof of the same and further submitted that the petitioner had filed the suit only for injunction without the prayer of declaration of title over the suit properties and hence the suit is not maintainable and in the suit for bare injunction, the petitioner cannot seek of temporary injunction and further submits that the properties of the defendants were allotted to them as per the partition deed dated 27.12.1975 which was allotted in the 3rd item of the D schedule to the said partition deed.

6. And further submitted that the properties belonging to the defendants are measuring about 94 feet North South and 10 feet East West and further submits that the terrace house constructed by the plaintiff in the southern side is also constructed by the plaintiff by encroaching 1 feet belonging to the defendants and therefore submits that there is no cause of action in the suit and hence the suit must be dismissed with cost.

7. Heard both counsels. Records perused. On the side of the petitioner Ex.P1 to Ex.P9 are marked and on the side of the respondents Ex.R1 is marked and further Advocate Commissioner Report and Plan is marked as Ex.C1 and C2. On perusal of

the pleadings and documents and Advocate Commissioner Report submitted by both sides, it is seen that, there is a dispute has to the ½ feet in the suit properties with the adjoining land owner namely respondents and on perusal of the Ex.P9 photographs, it is seen that, the defendants had constructed in his land, beam with Iron rods projecting upwards which when constructed will damage the cement plaster connecting the cement plastered roof with the wall constructed in the suit properties, thus would cause damage to the house in the suit properties and hence on perusal of the case records, it is seen that, the prima facie case is proved by the petitioner and balance of convenience lies in the favour of the petitioner as when the respondent is allowed to construct the beam in his land would cause damage to the house in the suit properties and which would result in irreparable loss to the petitioner and therefore till the suit is decided on merits, this Court is of the opinion that it is necessary to grant interim injunction against the respondents, their men, agents not to damage and demolish the cement plastered country roofs and the wall in the suit properties till the disposal of the suit on merits.

In the result, this petition is allowed and ad interim injunction against the respondents, their men, agents not to damage and demolish the cement plastered country roofs and the wall in the suit properties till the disposal of the suit on merits. No cost.

Dictated to the Steno-Typist, directly typed by her in computer, corrected and pronounced by me in Open Court, this the 05th day of January 2026.

Sd/- B.Salma,
District Munsif,
Polur.

Petitioner side evidence : Nil

Petitioner side documents :

Ex.P1	The certified copy of the sale deed dated 26.03.1999.
Ex.P2	The certified copy of the Manaivari Thoraya Patta with respect to the suit properties.

Ex.P3	FM Sketch.
Ex.P4	The House tax receipts (2 No's).
Ex.P5	The Electricity Connection card and receipt.
Ex.P6	The certified copy of the sale deed dated 13.02.1998.
Ex.P7	The original mortgage deed dated 25.08.1938.
Ex.P8	The original mortgage deed dated 12.02.1952.
Ex.P9	Photographs.

Respondents side evidence : Nil

Respondents side documents :

Ex.R1	The certified copy of the partition deed dated 27.12.1975.
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Court Documents :

Ex.C1	Commissioner Report
Ex.C2	Commissioner Plan

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