

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Monday, the 22nd day of July 2024.

I.A. NO.2 OF 2023

IN

O.S. NO.7 OF 2023

1. R.Kavithirumaran
2. R.G.Priya

.....Petitioners/Plaintiffs

Versus

- 1.Nagaboshanam
2. Alavanthan
3. Karpagam
4. Karthik
5. Arun
6. Naveen

.....Respondents/Defendants

This petition having come on 25.06.2024 before me for final hearing in the presence of Mr.R.Krishnan. The respondents 1 to 6 were set exparte. Upon hearing the arguments made by the learned counsel for the petitioners and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 39 Rules 1 and 2 of CPC to grant an interim injunction restraining the respondents/defendants, their men, agents, successors, or any person claiming any right through them from in any manner trespassing into the petition schedule mentioned property or from disturbing the plaintiffs' peaceful possession and enjoyment of the petition schedule mentioned property or from interfering with the cleaning of the petition schedule mentioned property pending disposal of the suit.

2. Brief averments of the affidavit filed by the petitioners are as follows:

2.1. The first petitioner who is the brother of the second petitioner has submitted this affidavit on his behalf and on behalf of the second petitioner. The suit has been filed by the petitioners / plaintiffs before this court seeking for a relief of permanent injunction as against the respondents / defendants. The 1st petitioner submits that the house and land situated at Perumal koil street, Angadu village, Ponneri Taluk, Thiruvallur Distirct, comprised in Natham new S.No.344/3, admeasuring 7108 square feet, hereinafter referred to as “petition schedule mentioned property” was owned and possessed by his grandmother A.Dhanalakshmi and that the said Dhanalakshmi has also obtained Mannaivari Thoraya Patta bearing No.51 in her name for the said property.

2.2. The 1st petitioner further submits that out of love and affection the aforesaid A.Dhanalakshmi had settled the petition mentioned property absolutely to and in favour of the petitioners jointly in and by the settlement deed dated 25.03.2021. The said settlement deed was registered as document No.4083 of 2021, on the file of the SRO, Redhills.

2.3. The 1st petitioner further submits that the petitioners have then mutated the entire revenue records pertaining to the petition schedule mentioned property in their names and are enjoying the same without any hindrance from anyone. The 1st petitioner further submits that on 04.06.2022 their father namely V.Raghuram died and from then on the respondents / defendants colluding with each other are creating problems and are also claiming a portion of petition schedule mentioned property. The 1st petitioner states that since they refused to the demands of the respondents, the respondents are trying to trespass into the petition schedule mentioned property with an intention to grab the same.

2.4. The 1st petitioner submits that on the first week of August 2022, the respondents tried to clean a portion of the petition schedule mentioned property with a deliberate

intention to grab the property and the same was restrained by the said Dhanalakshmi. The 1st petitioner states that when the 1st petitioner questioned on the trespassing of the petition schedule mentioned property by the respondents and also questioned about the wrongful activities of the respondents, the respondents have threatened the 1st petitioner with dire consequences. The 1st petitioner then had lodged a police complaint against the respondents / defendants. The said complaint was taken on file and CSR Number was issued in CSR No.1090/22. The respondents who are neighbours to the petition mentioned property kept on disturbing the said Dhanalakshmi by trying to dump garbage in the petition schedule mentioned property. Again on 03.01.2023, when the 1st petitioner was in the petition schedule mentioned property, the respondents created problem and tried to trespass into the petition schedule mentioned property. Hence this petition.

3. Brief averments of the written statement filed by the 3rd respondent and adopted as counter of the Respondents 1 to 6 are as follows:

3.1. The respondents submit that the petition schedule mentioned property does not consist of any house and that it is a vacant land which was being enjoyed by the respondents and hence in the petition the description of the petition schedule mentioned property is wrongly mentioned. Further the respondents deny that the said Dhanalakshmi possessed and got Mannavari Thoraya Patta for the petition schedule mentioned property.

3.2. The respondents state that the settlement deed executed in favour of the petitioners is a created document and submit that the plaintiffs' maternal great grandfather namely Arumugam during his life time had enjoyed many properties including the petition schedule mentioned property at Angadu village. After the demise of the said Arumugam, his legal heirs namely Nagan alias Nagappan, Annamalai and Raghavan inherited the same and enjoyed the said properties by constructing houses thereon and also left some vacant lands including the petition schedule mentioned property.

3.3. The respondents state that the said Dhanalakshmi is the maternal grandmother of the plaintiffs and wife of Annamalai who is one of the sons of the aforesaid Arumugam. The respondents 1 to 3 are the wife, son and daughter respectively of Raghavan who is the youngest son of the aforesaid Arumugam. The respondents 4 and 5 are the sons of Alavanthan and grandsons of Raghavan. The respondent 6 is the son of Sankar who is the son of the said Nagan alias Nagappan.

3.4. The respondents state that they along with the other family members have been enjoying the vacant petition schedule mentioned property as undivided joint family property besides other properties at Angadu village. Hence the settlement deed in Document No.4083/2021 dated 25.03.2021 made in favour of the petitioners by the Late Annamalai's wife namely Dhanalakshmi is null and void and the petitioners do not have any individual right and claim over the vacant petition schedule mentioned property which is jointly owned by the respondents and their family members. Further, the said Dhanalakshmi came to the Angadu village after marrying Annamalai and the said Dhanalakshmi never got any title over the petition schedule mentioned property. Hence the petition is liable to be dismissed with costs.

4. Subsequent to the filing of the written statement, the Respondents 1 to 6 have failed to appear before this court and hence were set exparte.

5. On the side of the petitioners, Exhibits P1 to P7 were marked and no oral evidence was let in. On the side of the respondents, no oral or documentary evidence was submitted before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not?

6. Heard the counsel for petitioners. Records Perused.

7. Upon considering the material case records and arguments placed before this court, this court finds that the petitioners are the plaintiffs in the suit and that the petitioners have filed the suit for a relief of permanent injunction as against the

respondents/defendants. This petition has been filed for an interim injunction as against the respondents from in any manner trespassing into the petition schedule mentioned property or from disturbing the plaintiffs' peaceful possession and enjoyment of the petition schedule mentioned property or from interfering with the cleaning of the petition schedule mentioned property pending disposal of the suit. The petitioners contend that the petition schedule mentioned property was owned and possessed by their grandmother A.Dhanalakshmi and that the said Dhanalakshmi has also obtained Mannaivari Thoraya Patta bearing No.51 in her name for the said property. The petitioners further contend that out of love and affection the aforesaid A.Dhanalakshmi had settled the petition mentioned property absolutely to and in favour of the petitioners jointly in and by the settlement deed dated 25.03.2021, registered as document No.4083 of 2021, on the file of the SRO, Redhills. The petitioners submit that they have then mutated the entire revenue records pertaining to the petition schedule mentioned property in their names and are enjoying the same without any hindrance. The petitioners have also submitted Exhibit P6, the Patta for the petition mentioned property bearing No. 51 and standing in their names. The petitioners further contend that the respondents colluding with each other are creating problems and are also claiming a portion of petition schedule mentioned property. Since the petitioners refused to the demands of the respondents, the respondents are trying to trespass into the petition schedule mentioned property with an intention to grab the same.

8. The petitioners submit that in the first week of August 2022, the respondents tried to clean a portion of the petition schedule mentioned property with a deliberate intention to grab the property and the same was restrained by the said Dhanalakshmi. The petitioners also allege that when the 1st petitioner questioned about the wrongful activities of the respondents, the respondents have threatened the 1st petitioner with dire consequences. The 1st petitioner then had lodged a police complaint against the respondents / defendants. The said complaint was taken on file and CSR Number was

issued in CSR No.1090/22. The petitioners have also submitted Exhibit P7, the said CSR bearing No. 1090/22 issued by the Sholavaram Police Station on 06.08.2022. The respondents who are neighbours to the petition schedule mentioned property kept on disturbing the said Dhanalakshmi by trying to dump garbage in the petition schedule mentioned property. The petitioners further contend that again on 03.01.2023, when the 1st petitioner was in the petition schedule mentioned property, the respondents created problem and tried to trespass into the petition schedule mentioned property. The petitioners have also submitted Exhibit P1, a copy of the complaint dated 04.02.2023 given by the 1st petitioner and Exhibit P2, another complaint dated 10.04.2023 given by the Dhanalakshmi to the Sub-Inspector of Police, Shozhavaram Police Station against the respondents. Exhibits P3 to P5 are the photographs and a Compact Disc containing the photographs of the petition schedule mentioned property.

9. On the other hand, the respondents submit that the petition schedule mentioned property does not consist of any house and that it is a vacant land which was being enjoyed by the respondents. Further the respondents deny that the said Dhanalakshmi possessed and got Mannavari Thoraya Patta for the petition schedule mentioned property. The respondents state that the settlement deed executed in favour of the petitioners is a created document and submit that the plaintiffs' maternal great grandfather namely Arumugam during his life time had enjoyed many properties including the petition schedule mentioned property at Angadu village. After the demise of the said Arumugam, his legal heirs namely Nagan alias Nagappan, Annamalai and Raghavan inherited the same and enjoyed the said properties with their family members. The respondents contend that the said Dhanalakshmi is the maternal grandmother of the plaintiffs and wife of the said Annamalai. The respondents 1 to 3 are the wife, son and daughter respectively of the said Raghavan. The respondents 4 and 5 are the sons of Alavanthan and grandsons of Raghavan. The respondent 6 is the son of Sankar who is the son of the said Nagan alias Nagappan.

10. The respondents further contend that they along with the other family members have been enjoying the vacant petition schedule mentioned property as undivided joint family property and hence the settlement deed in Document No.4083/2021 dated 25.03.2021 made in favour of the petitioners by the said Dhanalakshmi is null and void and the petitioners do not have any individual right and claim over the vacant petition schedule mentioned property which is jointly owned by the respondents and their family members. Further, the respondents contend that the said Dhanalakshmi never got any title over the petition schedule mentioned property to execute a settlement deed.

11. On careful analysis of the above, this court finds that when the petitioners states that Dhanalakshmi had obtained Patta for the suit property based on her possession over the said property, the petitioners have neither submitted any document to show in support of her possession over the suit property nor did they submit the said patta in her name for the suit property. When the petitioners state that the said Dhanalakshmi had executed a settlement deed for the suit property in favour of the petitioners, the petitioners have neither submitted the said settlement deed nor did they establish the right of the said Dhanalakshmi over the suit property so as to execute the said Settlement deed. Also, in the petition schedule mentioned property it is shown as there is a presence of a house in the property. But contrary to it on perusal of the above Exhibits P3 and P4, the photographs, it shows that only a thatched hut is under the process of being put up over there. There is no house as claimed is located over there. Further on perusal of Exhibit P1, the police complaint it is seen that the 1st petitioner alleges that already the respondents have trespassed into the petition schedule mentioned property and have put up a hut over there. In such a scenario, the petitioners instead of seeking for recovery of possession has filed this suit for a relief of permanent injunction and also this petition for interim injunction till the disposal of the suit. The petitioners seeking any interim relief have to place the criteria that exists in their favour as a sound basis so as to enable to arrive at a prima facie case.

But in this case, this court finds to conclude that the petitioners have failed to do so. Also, this court finds that the prayer sought for in this petition and in the suit is one and the same. To decide on the relief sought for in the main suit at this interim stage would be pre-mature and thus cannot be considered as it would tantamount to a pre-trial decree. This court is of the opinion that the relief sought for in this petition has to be decided only upon conducting a full trial in the main suit. Therefore, this court is not inclined to grant the relief as prayed for in this petition at this stage.

12. In the result, this petition is dismissed. No costs.

Dictated to the Steno-Typist, who directly typed the same, corrected and pronounced by me in the open court on this, the 22nd day of July 2024.

**DISTRICT MUNSIF
PONNERI**

List of witnesses on the side of the petitioners: NIL

List of documents on the side of the Petitioners:

Exhibits	Date	Description of Documents
Exhibit P1	04.02.2023	Complaint letter from the 1 st petitioner to the Sub Inspector of police, Sholavaram Police Station – Xerox copy
Exhibit P2	10.04.2023	Complaint letter to the Sub Inspector of police, Sholavaram Police Station – Xerox copy
Exhibit P3	--	Photograph
Exhibit P4	--	Photograph
Exhibit P5	--	Compact disc
Exhibit P6	11.07.2022	Original patta, Patta No.51
Exhibit P7	06.08.2022	Original CSR, CSR No.1090/2022

List of witnesses and Exhibits on the side of the respondents: Nil

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.2/2023
O.S.No.7/2023
Date:22.07.2024
DMC,PNI.