

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

**PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.**

Monday, the 20th day of July 2026.

I.A.No.3 of 2025
in
O.S.No.17 of 2025

1. E.Sekar
2. S.Punniyakotti
3. Logeshwari

..... Petitioners/plaintiffs

- Vs -

1. Deivanai
2. The Sub Registrar, Ponneri.

..... Respondents/defendants

This petition came before me 16.07.2026 for final hearing in the presence of Mr.R.Kalamegam, learned counsel for the petitioners/plaintiffs and Mr.S.Rajinikanth, learned counsel for the 1st Respondent/defendant. The 2nd respondent was set exparte on 27.03.2026. Upon hearing the arguments of both sides and on perusal of the material case records and having stood over for consideration before this court till this day, this court delivers the following

ORDER

This petition has been filed by the petitioners under Order 2 Rule 2 of CPC to file as separate suit for specific performance of sale agreement on the same cause of action within 3 months and permit the petitioners/plaintiffs to file present suit for permanent injunction restraining the respondents/defendants not to disturb the peaceful possession and enjoyment the petition mentioned suit schedule of property.

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

2.1. The petitioners are the plaintiffs in the suit seeking a decree of permanent injunction. They claim absolute ownership and possession of the suit property,

namely Village Natham land measuring 370 sq. metres (9.13 cents) in G.R. Survey No.125 (Part), Patta No.930, New Survey No.125/7, together with the group house situated thereon at Edamani Village, Pulicut, Ponneri Taluk, Thiruvallur District. The property was originally occupied and enjoyed by Raniyammal, mother of the 1st petitioner and grandmother of the 2nd petitioner. After the death of her husband Elumalai, Raniyammal permitted Srinivasan, son of Annamalai Nattar (Elumalai's brother), to occupy a small portion of the property, where he first put up a hut and later constructed a group house. Though his occupation was limited to 246.5 sq. ft., Srinivasan illegally obtained Patta No.930 for the entire extent of 370 sq. metres (9.13 cents). Srinivasan married the 1st respondent, but they lived together only for six months, after which she left him, resided separately at Chennai, filed maintenance proceedings, and did not return even for his cremation after his death on 11.11.1995. Thereafter, Raniyammal resumed possession of the entire property and remained in enjoyment until her death, following which the petitioners, as her legal heirs, have been in continuous possession and enjoyment of the suit property.

2.2. After Srinivasan's death, the 1st respondent lodged a police complaint against the 1st petitioner on 24.11.1996. Since the patta stood in Srinivasan's name, the 1st petitioner entered into a Sale Agreement dated 17.12.2013 with the 1st respondent for purchase of the entire suit property for Rs.50,000/-. The 1st respondent received Rs.45,000/-, inclusive of Rs.3,000/- paid earlier during a police enquiry, handed over the original patta, agreed to execute the sale deed whenever demanded, and undertook not to claim any future right over the property. The agreement was witnessed by M. Duraisamy and D. Nithyanandham.

2.3. After nearly eight years, the 1st respondent submitted a representation dated 18.01.2021 before the Tahsildar, Ponneri, seeking recovery of possession. Upon enquiry, in which the 1st petitioner participated, the Tahsildar advised the 1st respondent to execute the sale deed. The 1st petitioner also submitted representations dated 12.01.2021 and 21.12.2024 before the RDO, Ponneri, seeking cancellation of

the patta standing in Srinivasan's name and transfer of the same to him, which are pending. During the enquiry held on 08.06.2021, the 1st respondent remained absent but attempted to secure patta in her favour through undue influence. Despite repeated requests, she failed to execute the sale deed in terms of the Sale Agreement dated 17.12.2013.

2.4. Instead, the 1st respondent presented a sale deed for registration in respect of the suit property through TP No.20382698/2024 dated 18.12.2024. On learning of the same, the 1st petitioner filed objections before the 2nd respondent on 21.12.2024. The 2nd respondent fixed an enquiry on 18.02.2025, which was adjourned to 24.02.2025 on the request of the 3rd petitioner, as the 1st and 2nd petitioners were away on fishing work. The petitioners contend that Srinivasan was only a permissive occupier and had illegally obtained patta, which is already under challenge before the revenue authorities. To avoid litigation, the 1st petitioner entered into the Sale Agreement and paid 90% of the sale consideration, yet the 1st respondent refused to execute the sale deed and is instead attempting to alienate the property to third parties despite not being in possession. The petitioners further learnt that, after deserting Srinivasan, the 1st respondent remarried and has been residing elsewhere; therefore, she is not entitled to claim as Srinivasan's legal heir. The Sale Agreement dated 17.12.2013 is binding on her, making it necessary to restrain her from alienating the property.

2.5. The petitioners have been in peaceful possession of the suit property for generations. The ration card and voter identity card of Raniyammal, as well as the death certificates of Raniyammal and Maha @ Maheswari, wife of the 1st petitioner, all show the suit property as their residence, establishing possession for over 60 years. The petitioners cannot be dispossessed except by due process of law. On 19.02.2025, under the guise of alienating the property, the 1st respondent attempted to dispossess the petitioners with the help of rowdy elements, but the attempt was thwarted with the assistance of neighbours and local residents. The petitioners further contend that the Sub-Registrar, Ponneri, ignored the Sale Agreement, failed to insist

upon production of the original patta, parent documents, and legal heirship certificate of Srinivasan, and is colluding with the 1st respondent to register the sale deed. Registration of the sale deed, particularly TP No.20382698/2024, would cause irreparable prejudice and hardship to the petitioners. Hence, the present suit seeking a decree of permanent injunction restraining the respondents from registering or alienating the suit property.

3. Brief averments of the counter filed by the 1st Respondent are as follows:

3.1. The 1st respondent submits that her husband, Srinivasan, was in lawful possession and enjoyment of the suit property. Under the Government of Tamil Nadu scheme for assignment of Grama Natham lands to landless persons in possession of dwelling houses, the Special Tahsildar assigned the property to Srinivasan and issued Patta No.930 based on his possession and enjoyment. The allegations that Srinivasan was only a permissive occupier under Raniyammal, that he illegally obtained patta for the entire extent of 370 sq. metres (9.13 cents) though he occupied only 246.5 sq. ft., that the 1st defendant lived with him only for six months, deserted him, filed maintenance proceedings, failed to attend his cremation after his death on 11.11.1995, and that thereafter Raniyammal and subsequently the plaintiffs possessed and enjoyed the property are all false, concocted, and denied. The plaintiffs are put to strict proof thereof. Srinivasan remained in occupation and enjoyment of the suit property and was validly granted patta.

3.2. The 1st respondent denies the allegations that she lodged a police complaint on 24.11.1996, received Rs.3,000/-, relinquished her rights over the property, or subsequently executed a Sale Agreement dated 17.12.2013 after receiving consideration, with M. Duraisamy and D. Nithyanandham as witnesses. All such allegations are false and specifically denied. The plaintiffs unlawfully took away the 1st respondent's belongings, including the original patta, though during the police enquiry they falsely stated that no such patta was available. The parties belong to the Fishermen community and are bound by the decisions of the community panchayat, due to which the 1st respondent was prevented from entering her own house. The

plaintiffs illegally encroached upon her property, threatened her, and despite several police complaints, no effective action was taken. Instead, taking advantage of their money and influence, the plaintiffs compelled the 1st respondent to compromise and thereafter filed the present suit for permanent injunction against the true owner. The plaintiffs have taken inconsistent stands by alleging that Srinivasan was only a permissive occupier while simultaneously claiming rights under an alleged Sale Agreement dated 17.12.2013, thereby admitting the 1st respondent's title. Even assuming such an agreement existed, the limitation for filing a suit for specific performance expired after three years. Instead of seeking specific performance or declaration, the plaintiffs have filed only a suit for permanent injunction, which is not maintainable.

3.3. The allegations that the 1st plaintiff entered into a Sale Agreement, paid 90% of the sale consideration, that the 1st respondent refused to execute the sale deed, attempted to alienate the property to third parties, was not in possession, remarried after Srinivasan's death, and thereby lost her status as his legal heir are all denied. The death certificates of Raniyammal and Maha @ Maheswari, wife of the 1st plaintiff, merely show the suit property as their residence and do not confer title. The plaintiffs themselves admit that they cannot be dispossessed except by due process of law, thereby acknowledging that they are only in possession and not owners. Their own pleadings establish that they are encroachers and, therefore, the suit for permanent injunction is not maintainable. The 1st plaintiff is originally a native of Kilambakkam and later settled at Palaverkadu, whereas the 1st respondent's father-in-law, late Annamalai, was her maternal grandfather and a native of Palaverkadu. The 1st respondent married her mother's elder brother, Srinivasan. Hence, the petition is liable to be dismissed.

4. Evidence :

Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court.

5. Point for determination :

Whether this petition can be allowed or not

6. Discussion and Findings :

6.1. Heard both sides. Records perused. This petition has been filed by the petitioners/plaintiffs under Order II Rule 2 CPC seeking leave to institute a separate suit for the relief of specific performance. The present suit has been filed seeking the reliefs of permanent injunction restraining the 1st defendant, her men, agents, servants or any person claiming through her from alienating the suit property; permanent injunction restraining the 1st defendant or her men from dispossessing the plaintiffs except by due process of law; and permanent injunction restraining the 2nd defendant from registering the sale deed in T.P. No.20382698/2024 dated 18.12.2024 or any other sale deed in respect of the suit property. According to the petitioners, they entered into a Sale Agreement with the 1st respondent/1st defendant on 17.12.2013 for a total sale consideration of Rs.50,000/-, out of which a sum of Rs.45,000/- was paid as advance. It is further stated that the petitioners have always been ready and willing to perform their part of the contract and obtain execution of the sale deed. On the above premise, the petitioners seek leave of this Court to reserve the relief of specific performance while prosecuting the present suit for injunction.

6.2. Upon hearing the rival submissions and on a careful perusal of the pleadings, it is evident that the parties are at variance not merely with regard to possession but also with regard to the very title and entitlement over the suit property. While the plaintiffs claim continuous possession and seek protection thereof, they simultaneously rely upon the Sale Agreement dated 17.12.2013 executed by the 1st defendant, thereby acknowledging that the title stood in the name of the vendor. On the other hand, the 1st defendant disputes the very execution of the alleged Sale Agreement. Without expressing any opinion on the merits of such rival claims, the limited question that

falls for consideration in this application is whether the petitioners are entitled to leave under Order II Rule 2 CPC to reserve the principal relief of specific performance while maintaining the present suit substantially for injunction.

6.3. During the course of arguments, both sides submitted that the petitioners/plaintiffs herein has already instituted a comprehensive suit for specific performance in O.S. No.196 of 2025 and that the said suit is pending before this court. If the comprehensive suit has already been instituted, the necessity for leave under Order II Rule 2 CPC does not survive for consideration. It also remains unexplained as to how the subsequent suit came to be instituted without any prior leave. Further, on a reading of the plaint, the apprehension expressed by the petitioners regarding possible alienation of the property is only consequential to the contractual rights claimed under the Sale Agreement. The entire cause of action pleaded by the petitioners revolves around the alleged agreement dated 17.12.2013, the payment of consideration thereunder and the alleged failure of the 1st defendant to execute the sale deed.

6.4. With the above factual matrix, the only dispute to be adjudicated is whether leave to sue can be granted in a suit for bare injunction to file a suit for specific performance. To answer that issue the reliance would be placed on the case of the Hon'ble Madras High Court in *R.Chendilvel Vs. G.Damodaran*, AIR 2015 Madras 96 wherein it was held as follows:

“It is well settled that an agreement holder s entitled to maintain a suit, seeking specific performance of the contract, however, without filing a proper suit, seeking specific performance of the contract, he cannot file a suit, seeking bare injunction against the owner of the property, not to alienate the property and reserve the main relief, to file a suit for specific performance of the agreement and the 1st respondent/plaintiff has not stated any acceptable reason, for seeking leave for filing suit at the later stage, based on the alleged agreement.

..... *In order to avoid, paying proper court fee, as per procedure known to law, he filed a petition in IA.No.711 of 2013, under Order 2 rule 2 read with Section 151 of the code of civil procedures, seeking leave to file a comprehensive suit of specific performance at later stage on the same cause of action. The Court below, without deciding the same according to law, on merits after providing opportunity to the defendant, has simply passed an one word order, permitted on 11.01.2013 which is contrary to law.”*

The above judgment squarely applies to the facts of the present case. The ratio laid down therein clearly observes that when the principal relief of specific performance has already become available, a plaintiff cannot maintain a suit for bare injunction restraining alienation and simultaneously seek leave to reserve the principal relief. Such an exercise would amount to circumventing the statutory mandate contained under Order II Rule 2 CPC.

6.5. Another case of *U.Sangeetha Vs R.Ulagaperoli*, CRP PD.No.2503/2016 dated 16.10.2020 is also referred to support the above contention. Added to the above, this Court would also place reliance upon the judgment of the Hon'ble Supreme Court in *Virgo Industries (Eng.) Private Limited Vs. Venturetech Solutions Private Limited*, wherein it has been reiterated that where the cause of action for seeking specific performance had already accrued, omission to claim such relief cannot be permitted to be subsequently cured in a manner inconsistent with the mandate of Order II Rule 2 CPC.

6.6. The principles laid down in the above precedents make it clear that a plaintiff cannot split the cause of action by first seeking an injunction and thereafter reserve the principal relief of specific performance, unless sufficient reasons are stated. Section 41(h) of the Specific Relief Act specifically provides that an injunction may be refused where an equally efficacious remedy is available to the petitioner. The relevant provision is extracted below for ready reference:

“Section 41 : Injunction when refused :-

(h) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust;”

6.7. Applying the above principles to the facts of the present case, this Court finds that the petitioners have not stated any reason as to why the comprehensive relief of specific performance was not sought at the earliest point of time when, according to their own pleadings, the cause of action had already arisen. Even assuming that there existed an imminent threat of alienation, the petitioner under the threat only ought to have sought for the main relief of specific performance of contract rather than merely seeking an ancillary injunction. The petitioner/plaintiff by leaving out the principal relief cannot sue for the cause of action arising out of the same transaction in a piecemeal manner. It is also pertinent to note that an agreement of sale, by itself, does not create any right, title or interest in immovable property. The rights flowing from such an agreement are contractual in nature and require enforcement through a properly constituted suit for specific performance. Unless such contractual right is adjudicated and enforced, a mere injunction restraining the true owner from dealing with the property cannot ordinarily be granted. The injunction sought in the present suit is only consequential and incidental to the main relief of specific performance and cannot survive independently when the substantive relief itself has either already accrued or has in fact already been instituted by the petitioners in a separate proceeding.

6.8. Moreover, the prayer in the present petition itself is vague and ambiguous. While the petitioners seek leave to institute a suit for specific performance within three months on the same cause of action, they have simultaneously sought permission to institute a suit for permanent injunction restraining the defendants from interfering with their peaceful possession and also for "such other reliefs" as this Court may deem fit. Such an uncertain prayer cannot be entertained. Leave under Order II Rule 2

CPC can be granted only with respect to a specific relief proposed to be reserved. The Court cannot grant leave in respect of future reliefs which have not been clearly pleaded. Furthermore, the petitioners have admittedly already instituted a suit for specific performance as well as the present suit for injunction. In such circumstances, the prayer seeking leave to institute those very proceedings becomes wholly infructuous.

6.9. In light of the above precedents and the factual circumstances of the present case, this Court is of the considered view that when an effective and comprehensive remedy of specific performance is available, and in fact has already been invoked by the petitioners themselves, the present application seeking leave under Order II Rule 2 CPC is devoid of merit. Therefore, the present petition is hereby stand dismissed.

7. Result :

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

Dictated by me to the steno-typist, directly typed by her in her desktop, corrected and pronounced by me in the open court, on this the 20th day of July 2026.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- Nil

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.3/2025
O.S.No.17/2025
Date:20.07.2026
DMC,PNI.