

**IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.**

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

Thursday, the 20<sup>th</sup> day of February 2025.

**I.A. NO.3 OF 2024**  
**IN**  
**O.S. NO.107 OF 2024**

1. Rajasekar
2. Sivaraman
3. Satheeshkumar
4. Sekar

.....Petitioners/Plaintiffs

Versus

1. Radha
2. Vijayakumar

.....Respondents/Defendants

This petition having come on 03.01.2025 before me for final hearing in the presence of Mr.E.Masilamani, the learned counsel for the petitioners. The respondents 1 and 2 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 R/W. Section 151 of CPC to pass an order of interim injunction restraining the respondents/defendants, their men, agents, servants and others from in any way encroaching and putting up compound wall in the petition mentioned property and from interfering with the petitioners' peaceful enjoyment of the petition mentioned property.

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

2.1. The petitioners are the plaintiffs in the suit. The petitioners have filed the suit for a relief of permanent injunction as against the defendants. The petitioners state

that they are the residence of Vinayagar Kovil 1<sup>st</sup> cross street, Nandiambakkam village where the petition mentioned property situated. The petitioners state that as residents of Nandiambakkam village they were enjoying the land in S.No.228/3 and have constructed their houses therein. The Revenue Department also as issued Manaivari Thoraya patta under the Natham Nilavari Scheme and assigned new survey number for the said land as S.No.321. The said survey number were subsequently subdivided as S.No.321/1 to 321/18. Out of these survey numbers, the land area comprised S.Nos.321/1, 321/2, 321/3, 321/4, 321/6 to 321/18 are allotted to the residents of that village and S.No.321/12 is allotted for street access to the house sites allotted in the other survey numbers. The petitioners state that they along with other residents of the village have constructed their houses in the said allotted land area and they have also obtained electricity service connection for the same and that they are also making payment towards house tax and water tax to the concerned authorities for the said house properties therein.

2.2. The petitioners further state that the defendants are residents of Vinayagar Kovil 1<sup>st</sup> cross street and their house is constructed in S.No.321/16 on the eastern side of the said street. On 25.08.2024 the defendants have obstructed the petitioners from using the street in front of their house and encroached upon the eastern side of the said street measuring to an extent of 6 feet width and tried to construct compound wall. On 28.08.2024 the 1<sup>st</sup> petitioner issued a legal notice to the 1<sup>st</sup> defendant calling him not to put up a compound wall in the said street and the same was received by the 1<sup>st</sup> defendant who has sent a reply with false contentions. The 1<sup>st</sup> petitioner has also given a representation before the District Collector, Thiruvallur but there was no progress with regard to the said representation. Hence this petition.

3. Even after service of notice to the respondents 1 and 2 they have refused to receive the same and also failed to appear before this court and hence they were set exparte.

4. On the side of the petitioners, Exhibits P1 to P9 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 as they remained exparte through out the proceedings in this petition. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not?

5. Heard the counsel for the petitioners. Records Perused.

6. Upon considering the material case records, evidences and arguments placed before this court, this court finds that the petitioners are the plaintiffs in the suit and that the petitioners have filed this suit for a relief of permanent injunction to restrain the defendants, their men, agents, servants and others from in any way encroaching and putting up compound wall in the petition mentioned property and from interfering with the plaintiffs' peaceful enjoyment of the petition mentioned property. This petition has been filed for a similar relief as interim measure. The petitioners state that they are the residents of Vinayagar Kovil 1<sup>st</sup> cross street, Nandiambakkam village and that they are residing there by constructing a house. The petitioners state the allotment of the S.No.321/12 was a street as access to the nearby house sites and the defendants who are residents of the said street tried to encroach upon the said street by constructing a compound wall thereby trying to encroach 6 feet in the road. The petitioners have submitted Exhibits P1 to P9 on their side to support their case. Exhibits P1 to P3 are the patta records of the petitioners showing their ownership over the properties at the suit village. Exhibit P4 is the current consumption charges card in the name of the petitioners and their family. Exhibit P5 is the property tax receipts the name of the petitioners and their family. Exhibit P6 is the legal notice dated 27.08.2024 issued by the 1<sup>st</sup> petitioner to the 1<sup>st</sup> defendant thereby calling upon her not to encroach upon the petition mentioned property by putting up a compound wall and thereby obstructing access of the said street to the petitioners. Exhibit P7 is the representation submitted by the 1<sup>st</sup> petitioner dated 28.08.2024 to the District Collector, Thiruvallur District regarding the attempt of encroachment made by the

defendants. Exhibit P8 is the reply notice dated 03.10.2024 sent by the 1<sup>st</sup> defendant through her counsel to the petitioners' counsel. Exhibit P9 is the approved building plan of the 1<sup>st</sup> petitioner at S.No.321/9.

7. On careful analysis of the above this court finds that when the petitioners state that the S.No.321/12 is allotted as access to the street and to the nearby house sites, but to substantiate the same the connected Revenue records were not submitted by the petitioners. The petitioners have not submitted any evidence to show that S.No.321/12 is a street and that the defendants are attempting to encroach upon the same. While the defendants have not submitted their counter or any evidence as to disprove the case of the petitioners, the whole burden of proof lies on the petitioners to establish their case in which the petitioners have failed so. As such, this court is of the view that any adjudication regarding the same requires detailed evaluation of evidence and the same cannot be decided at this interlocutory stage.

8. Further, it is a settled law that in deciding an interlocutory application the court cannot grant the main relief sought for in the suit at the interim stage which would otherwise tantamount to a pre-trial decree. Hence, 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.

9. 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 20<sup>th</sup> day of February 2025.

**DISTRICT MUNSIF  
PONNERI**

**List of witnesses on the side of the petitioners:** NIL

**List of documents on the side of the Petitioners:**

| <b>Exhibits</b> | <b>Date</b> | <b>Description of Documents</b>                                                                                      |
|-----------------|-------------|----------------------------------------------------------------------------------------------------------------------|
| Exhibit P1      | 24.06.1997  | Original Manaivari Thoraya patta in the name of Rajasekaran, Patta No.605                                            |
| Exhibit P2      | 24.06.1997  | Original Manaivari Thoraya patta in the name of Sivaraman, Patta No.601                                              |
| Exhibit P3      | 24.06.1997  | Original Manaivari Thoraya patta in the name of Krishnan, Patta No.604                                               |
| Exhibit P4      | --          | Original Electricity consumption charges cards (3 Nos.)                                                              |
| Exhibit P5      | --          | Original Property tax receipts (12 Nos.)                                                                             |
| Exhibit P6      | 27.08.2024  | Office copy of the legal notice issued by the 1 <sup>st</sup> petitioner's counsel to the 1 <sup>st</sup> respondent |
| Exhibit P7      | 28.08.2024  | A copy of representation submitted by the 1 <sup>st</sup> petitioner to the District Collector, Thiruvallur District |
| Exhibit P8      | 03.10.2024  | Original Reply notice issued by the 1 <sup>st</sup> Respondent to the petitioners' counsel                           |
| Exhibit P9      | 05.06.1998  | Original of the approved building plan                                                                               |

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

**DISTRICT MUNSIF  
PONNERI**

Fair/ Draft Order  
I.A.No.3/2024  
O.S.No.107/2024  
Date:20.02.2025  
DMC,PNI.