

IN THE COURT OF THE DISTRICT MUNSIF AT AMBATTUR.

PRESENT: TMT.J.MADHUMITHA, B.A.B.L(HONS.), L.L.M.,
DISTRICT MUNSIF, AMBATTUR.

Monday, the 07th day of July 2025.

INTERLOCUTORY APPLICATION NO.2 OF 2024

IN

ORIGINAL SUIT NO.139 OF 2024

CNR No.TNTR22 – 000178 – 2024

Prabhu Raj

..... Petitioner/Plaintiff

Versus

R.Govindasamy

..... Respondent/Defendant

This petition having come on 23.06.2025 before me for final hearing in the presence of Shri.Mohankumar, P.V.Suresh, D.Shanmugapandian, J.Kabilan and S.Kaviarasu, learned counsels for the Petitioner/Plaintiff, Shri.C.M.Mohanasundaram and K.Satishkumar, learned counsels for the Respondent/Defendant, upon hearing the arguments made by the learned counsel for the petitioners and the respondents, and also on perusal of the records, having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 39 Rule 1 and 2 of CPC to pass an order of interim injunction restraining the Respondent/Defendant from any manner interfering with the peaceful possession and enjoyment of the suit schedule property during the pendency of the suit proceedings.

CONCISE STATEMENT OF PETITION FILED BY THE PETITIONER:

2. The Petitioner herein is the plaintiff in the main suit. That the petitioner is the absolute owner of the property situated at Plot No.67, Jayalakshmi Nagar – 3, Pothur Village, presently Avadi Taluk, previously Ambattur Taluk, Thiruvallur District comprised in Survey No.182/1 for an extent of 1200 sq.ft out of total extent of 2400 sq.ft.

3. The larger extent of property of an extent of 3 acres agricultural land comprised in survey No.182/1, Pothur Village, Saidapet Taluk, was allotted to C.B. Prasad and 11 others in terms of Judgment and Decree dated 03.05.1974 passed in the partition suit bearing C.S. No.114 of 1963 on the file of Hon'ble Madras High Court. The said suit was originally filed by W.Narasinga Prasad against W.Kanniayal and 11 others. Based upon the said Judgment and Decree dated 03.05.1974, the said C.B.Prasad and also representing the 11 others as their General Power of Attorney, had executed a sale deed dated 30.06.1993 bearing Doc.No.2134 of 1993 on the file of SRO, Redhills in favour of M.Mohan, son of Mari. The said M.Mohan had developed a lay out in a portion of the above total extent of property in the name and style as "Jayalakshmi Nagar-3". The said M.Mohan had executed a sale deed dated 29.08.1985 bearing Doc.No.3961 of 1995 on the file of SRO, Redhills in favour of J.Murali in respect of the total extent of 2400 sq.ft. In the above plot No.67, Jayalakshmi Nagar- 3, No.37, Pothur Village, comprised in Survey No.182/1. From there on the said J.Murali was in absolute possession and executed a General Power of Attorney dated 13.07.2009 bearing Doc.No.1116 of 2009 on the file of SRO, Redhills in favour of M.Gopinath.

4. M.Gopinath executed a sale deed dated 04.05.2023 bearing Doc. No.6892 of 2023 in respect of 1200 sq.ft in Plot No.67 to Petitioner. The original sale Deed dated 29.08.1995 and also the General Power of Attorney dated 13.07.2009 were lost. All the revenue records in respect of the suit schedule property mutated in the name of

Petitioner. The Defendant is allegedly the owner of the land property situated at Plot No.67, "Jayalakshmi Nagar", No.37, Pothur Village, Ambattur Taluk, comprised in survey No.182/1 for an extent of 2400 sq.ft. The said property is bounded on the North by Plot No.66, South by 24 feet road, East by Plot No.68 and West by 40 feet road. The said property was alleged to have purchased by the Defendant in terms of sale deed dated 10.07.2003 bearing Doc. No.3317 of 2003 on the file of SRO, Redhills from M.Krishnamurthy, son of Madhava Naidu. From the description of the property in the said sale deed dated 10.07.2003 it is apparent that the same only pertains to the land property situated in Jayalakshmi Nagar, but the property of myself is situated at Jayalakshmi Nagar – 3.

5. The Defendant is trying to grab the property of myself despite of the fact that the plot that Defendant purchased in terms of sale deed dated 10.07.2003 is located at Jayalakshmi Nagar. The defendant has not disputed the fact that there is no layout in the name of "Jayalakshmi Nagar" and "Jayalakshmi Nagar – 3" at Pothur Village. On that being the case the Defendant without any basis or right is attempting to claim title over the plot of myself which is situated at Jayalakshmi Nagar – 3. In encumbrance certificate dated 20.07.2009. Further in the Encumbrance Certificate dated 29.03.2023, which was applied by me before the purchase of the suit property, the property of the Defendant is specifically provided that it is located only at Jayalakshmi Nagar and not at Jayalakshmi Nagar – 3. The balance of convenience and irreparable hardship stands in my favour as there exist an immediate threat of being thrown out of the suit schedule property. Hence this petition is filed for an order of interim injunction restraining the Respondent/Defendant from any manner interfering with the peaceful possession and enjoyment of the suit schedule property during the pendency of the suit proceedings is prayed for.

WRITTEN STATEMENT FILED BY THE DEFENDANT :

6. The Respondent is the Defendant in the main suit and has denied the averments in the petition as false. The Respondent stated that this Defendant's vendor one Krishnamoorthy had purchased the land from one Mohan vide Sale Deed dated 21.01.1995 vide Document No.705/1995. The said Mohan had fraudulently once again executed a forged and fabricated sale deed in respect of the same property after six months in favour of one Mr.Murali vide Sale Deed dated 29.08.1995. The said Mohan had also fraudulently re-registered the same property in favour of Mr.Murali through a fabricated and forged registration of sale deed. Therefore, the said Mohan had created double documents in respect of the suit-schedule property in favour of this Defendant's vendor Mr.Krishnamoorthy as well as Mr.Murali. However, this Defendant's vendor Mr.Krishnamoorthy had purchased the property well in advance, i.e., six months before the second sale executed in favour of Mr.Murali and therefore Mr.Krishnamoorthy is the appropriate title-holder of the property and the sale deed bearing Document No.3962/1995 is a nullity in the eyes of law, since it was executed and registered six months after the purchase of the same property by Mr.Krishnamoorthy for a valuable sale consideration.

7. Mr.Murali had executed a Power of Attorney in respect of the aforesaid proeprty in favour of Mr.Gopinath vide Document No.1116/2009. The said Mr.Gopinath had found that the property was already registered in favour of this Defendant's vendor and that it was subsequently conveyed in favour of this Defendant, which was also reflected in the encumbrance certificate. Mr.Mohan had failed to cancel the second sale deed which was illegally registered by him. Defendant states that being fully aware about the Defendant's title over the said proeprty all the aforesaid persons viz., i) Mohan, ii)Murali, iii)Gopinath, iv)Sarvanan, v)Prabhu had conspired together and have attempted to illegally grab the land of the Defendant. The Respondent/Defendant

further submits that the land in Survey no.182/1, measuring 2400 sq.ft., of Pothur Village, bearing Plot No.67 situated at Jayalakshmi Nagar, Avadi Taluk belongs to the Defendant and the Revenue Authorities has issued Patta for the said land in the name of the Defendant. Hence the Respondent states that there is clearly cloud over title, and ad-interim injunction cannot be granted in favour of the Petitioner as sought for, as the Defendant is in possession of suit property, hence the petition to be dismissed.

POINT FOR CONSIDERATION:

8. Whether the petitioner is entitled for the relief of ad-interim injunction as prayed for ?

DISCUSSION AND FINDINGS:

9. Heard both sides, perused materials on record. On due perusal of the both side contention, this court finds that the Petitioner /Plaintiff has come up with this application seeking to grant an order of temporary injunction against the respondents, their men, agents etc., from in any manner interfering with his peaceful possession and enjoyment of the schedule mentioned property till the disposal of the suit and pass suitable orders under the circumstances of the case. It is the case of Petitioner that he is in possession of Plot No.67, Jayalakshmi Nagar – 3, Pothur Village, presently Avadi Taluk, previously Ambattur Taluk, Thiruvallur District comprised in Survey No.182/1 for an extent of 1200 sq.ft out of total extent of 2400 sq.ft. M.Gopinath acting as Power of attorney for one J.Murali had executed Ex.P5 sale deed dated 04.05.2023 bearing Doc. No.6892 of 2023 in respect of 1200 sq.ft in Plot No.67 to Petitioner. The original sale Deed dated 29.08.1995 and also the General Power of Attorney dated 13.07.2009 were lost. All the revenue records in respect of the suit schedule property mutated in the name of Petitioner. Per contra, the Defendants states that one Mohan had sold the above said land

to Mr.Krishnamoorthy (From whom the Defendant had purchased the land in the year 2003 via Ex.R4 Sale deed) on 23.01.1995 vide Ex.R2 Sale Deed bearing Document No.705 of 1995 and that, later after a 6 month the said Mohan sold the same property to another person named Murali on 29.08.1995 vide Sale Deed bearing Document No.3962 of 1995.

10. On perusal of both the sale deeds submitted by the Petitioner being Ex.P5 and Respondent being Ex.R4 claimed by them as their title document, it is observed that the Survey Number, Plot Number are one and the same, except the area name which is mentioned in Ex.P5 as Jayalakshmi Nagar-3, but mentioned in Ex.R4 as Jayalakshmi Nagar. The Learned Counsel for the Petitioner argued in detail that both the areas are not one and the same as Ex.P11 is shown as layout for Jayalakshmi Nagar-3. Further Ex.P10 Layout sketch for Jayalakshmi nagar is submitted by Petitioner, but it is observed that it does not purport to S.No.182/1, but to S.Nos.140 and 252/2 which are not related to this case. Further on perusal of Ex.P13 Encumbrance certificate with respect to S.No.182/1, SI.No.2 in EC shows the sale execution of Defendants vendor in the year 1995 buying plot in Jayalakshmi nagar, and only after that in SI.No.3 sale execution in favour of vendor of Petitioner is shown with respect to S.No.182/1 in the year 1995 buying plot in Jayalakshmi nagar-3. Hence a clear dispute has arisen whether Jaylakshmi Nagar and Jayalakshmi Nagar-3 are one and the same or different areas in the S.No.182/1 of Pothur village.

11. On the side of Petitioner, Ex.P6 to P.9, P.14 relates to the revenue records in name of Petitioner to S.No.182. Wherein, the Respondent has filed Ex.R.5, R.10, R.11, R.13 revenue records in the name of Respondent/Defendant to S.No.182. Further, Ex.R8 has been filed by the Respondent it is observed that by the Proceedings of the District Collector on 06.01.2025, the Ex.P6 Patta No.10773 in name of the Petitioner is ordered

to be cancelled. Hence a clear dispute over the possession of Petitioner as per revenue records has also arisen. With regard to Ex.R8, the Petitioner side has merely denied that Petitioner was not a part of the above proceedings, and hence the above order in Ex.R8 will not curtail the patta in name of Petitioner. But, it is seen that no further initiatives were taken on side of Petitioner against the order of Ex.R8. Thus, the Petitioner has not prima facie proved that he is in exclusive possession of the suit property.

12. It is observed that the main suit is sought for bare injunction. It is the burden upon the Plaintiff to prove that the S.No.182/1 is in possession and enjoyment of the Petitioner by disproving the title claimed by the Respondent. With regard to this, reference is made to Hon'ble Madras High Court Judgment, in **Ramalingam @ MGR Vs. Jayaram and another reported in 2020 (3) MWN (Civil) 429** , that,

"It is settled law that when a genuine dispute has been raised by the Defendant as regards ownership of the Plaintiff, the Plaintiff will have to seek the relief of Declaration",

On application of the above Judgment to the present case, as the Respondent has disputed the title of the Petitioner over the suit property via Ex.R1 to R4, the Petitioner has to prima facie prove his exclusive and lawful possession in suit property.

13. Further, it is worth to refer Hon'ble Madras High Court Judgment, in **M.B.Subramaniam vs A.Ramasamy Gounder**, in which it was held that, **" In a suit for bare injunction what the Court has to find out is as to whether as on date of filing of the suit for injunction, the appellant was in exclusive, established possession of the suit property"**

On application of the above ruling to the facts of this case, the Plaintiff has not established his exclusive and established possession of suit property particularly with regard to S.No.182/1 for the 1200 sq ft land. Hence, this Court finds that the prima-facie

case and balance of convenience of the Petitioner/Plaintiff have not been convincingly established before this Court, and there is no the irreparable injury on the side of the Petitioner if this petition is dismissed.

14. Further, the issue whether the Petitioner/Plaintiff are entitled to permanent injunction against the Respondent can be decided only at letting in evidence of both side and can be tested only in trial, and at this juncture it is pertinent to point out that our Hon'ble apex court Division bench has held in ANAND PRASAD AGARWALLA V. TARKESHWAR PRASAD & ORS [2001] INSC 292 (9 May 2001) S. Rajendra Babu & Shivaraj V. Patil (DB) :

" It may not be appropriate for any Court to hold mini trial at the stage of grant of temporary injunction".

15. Hence in the light of our Hon'ble Apex court division bench Judgment to the case on hand, the prima facie case putforth by the Petitioner/Plaintiff and Respondent side need to battled out only the trial and it can be decided only at the trial. Hence this Court does not find the prima facie case nor the balance of convenience in favour of the Petitioner, nor any irreparable loss or injury to the Petitioner at this stage.

RESULT :-

16. In the result this petition is dismissed. No cost.

Dictated to the steno-typist, transcribed by her in the desktop, corrected and pronounced by me in the open Court on this the 07th day of July 2025.

**Sd/-J.MADHUMITHA
DISTRICT MUNSIF,
AMBATTUR.**

List of Petitioner Side Witnesses : NIL

List of Petitioner Side Exhibits:

Exhibit P1	30.06.1993	Sale Deed - Photo Copy
Exhibit P2	29.08.1995	Sale Deed – Photo Copy
Exhibit P3	10.07.2003	Sale Deed – Online Certified Copy
Exhibit P4	13.07.2009	General Power of Attorney Deed - Photo Copy
Exhibit P5	04.05.2023	Sale Deed - Photo Copy
Exhibit P6	27.02.2024	Patta - Photo Copy
Exhibit P7	--	Chitta - Photo Copy
Exhibit P8	--	Adangal - Photo Copy
Exhibit P9	08.04.2024	Kist Receipt – Photo Copy
Exhibit P10	--	Layout Sketch – Photo Copy
Exhibit P11	--	Layout Sketch – Photo Copy
Exhibit P12	20.07.2009	Encumbrance Certificate – Online Copy
Exhibit P13	29.03.2023	Encumbrance Certificate – Online Copy
Exhibit P14	17.07.2023	Property Tax receipt – Photo Copy
Exhibit P15	15.06.2023	CSR – Photo Copy

List of Respondents Side Witnesses: NIL

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Exhibit R1	30.06.1993	Sale Deed – Online Certified Copy
Exhibit R2	23.01.1995	Sale Deed – Online Certified Copy
Exhibit R3	29.08.1995	Sale Deed – Online Certified Copy
Exhibit R4	10.07.2003	Sale Deed – Online Certified Copy
Exhibit R5	13.07.2009	Sale Deed – Photo Copy
Exhibit R6	04.05.2023	Sale Deed – Online Certified Copy
Exhibit R7	04.05.2023	Sale Deed – Online Certified Copy
Exhibit R8	06.01.2025	Letter – Photo Copy
Exhibit R9	16.02.2003	Encumbrance Certificate – Photo Copy

Exhibit R10	02.02.2013	Patta – Photo Copy
Exhibit R11	--	Chitta – Photo Copy
Exhibit R12	--	FMB Sketch – Photo Copy
Exhibit R13	--	Chitta – Photo Copy
Exhibit R14	06.02.2020	Land Tax Receipt – Photo Copy
Exhibit R15	25.01.2022	Land Tax Receipt – Photo Copy
Exhibit R16	18.07.2023	Encumbrance Certificate – Photo Copy
Exhibit R17	18.07.2023	Letter to Assistant Electrical Engineer – Photo Copy
Exhibit R18	20.07.2023	CSR – Photo Copy
Exhibit R19	19.07.2023	Letter to the Thasildar – Photo Copy
Exhibit R20	--	Letter to the Sub-Registrar – Photo Copy
Exhibit R21	--	Surveyor Report – Photo Copy
Exhibit R22	29.11.2023	Police Complaint – Photo Copy
Exhibit R23	12.02.2024	Surveyor Report to Police Inspector – Photo Copy
Exhibit R24	28.03.2024	FIR – Photo Copy
Exhibit R25	12.04.2024	Letter to the Registrar-General – Photo Copy
Exhibit R26	12.04.2024	Letter to the District - Registrar – Photo Copy
Exhibit R27	12.04.2024	Letter to the District Registrar – Photo Copy
Exhibit R28	--	Postal receipts – Photo Copy
Exhibit R29	--	Anticipatory Bail peition – Photo Copy
Exhibit R30	--	Intervening Petition – Photo Copy
Exhibit R31	--	Affidavit - Photo Copy
Exhibit R32	--	Order of the Principal District Judge - Photo Copy
Exhibit R33	--	2 nd Anticipatory Bail peition – Photo Copy
Exhibit R34	--	Intervening Petition – Photo Copy
Exhibit R35	--	Order of the Principal District Judge - Photo Copy

Sd/-J.MADHUMITHA
DISTRICT MUNSIF,
AMBATTUR.