

**DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE COURT,
SHENCOTTAH**

Present: Shri. M.SUNIL RAJA, B.A., M.L.,

District Munsif cum Judicial Magistrate

Dated on this the 9th day of November 2022

I.A.No.2/2022 in O.S.No.28/2022

Thangamani

S/o Kuthalingam

.....Petitioner/Plaintiff

Vs

1) M.Thirumalaiselvi

D/o K.Mariappan

2) K.Mariappan

S/o Kuthalingam

.....Respondents/Defendants

This petitions are coming before me on 03.08.2022 for final hearing in the presence of the learned counsel Mr.R.Ganapathy for the Petitioner/Plaintiff and the learned counsel Mr.S.Muthukumarasamy for the Respondents/Defendants on hearing both sides, upon perusing the material records, documents and having stood over for consideration till date this court delivers the following....

ORDER

This petition is filed for interim injunction against the respondents.

2. The petitioner states that the suit 2nd item of property is a common pathway and the respondents are constructed a house on the western side and in which the respondents attempted to made a construction of sun shade by which the petitioner is prevented to enjoyment of 1st item of suit property. Hence prays for temporary injunction.

3. The respondents side filed counter stating that the 2nd item of suit property is a common pathway and the respondents constructed a house by putting a basement and above 10 feet height only house was constructed, hence the 2nd item of suit

property pathway will not affect the usage of petitioner. Hence prays of dismissal of this petition.

4. Perused the records. It is admitted by both sides that the 2nd item of suit property is common pathway and the respondents constructed a house on the western side of 2nd item of suit property. On seeing the photos filed by the respondents itself shows that on the newly constructed wall over the windows iron rods are made available for the purpose of fixing sun shade and the pathway is only 3 feet width. In such circumstances if the respondents constructed a sun shade it will affect the common pathway. Hence for the said reasons this court views prima facie case is available in favour of petitioner and if injunction is not granted it will affect the petitioner's interest and it will cause irreparable injury to the petitioner. Therefore, temporary injunction is granted till the disposal of the suit against the respondents not to make any further construction over the 2nd item of suit property.

In the result, this petition is allowed.

Sd.M.Sunil Raja
District Munsif Cum
Judicial Magistrate, Shencottah