

IN THE COURT OF THE DISTRICT MUNSIF, VANIYAMBADI,

**Present: Thiru V.ESHWAR, B.E.,LL.B.,
DISTRICT MUNSIF, VANIYAMBADI**

Dated this the 2nd day of August, 2025

I.A. No. 2 of 2022
in
O.S. No.108 of 2022

S.Nadarajan

... Petitioner/Plaintiff

Vs.

R.M.Elango

... Respondent/Defendant

This petition coming on for final hearing before me on 02.08.2025 upon hearing the arguments of Mr. R.V. Varadarajan, learned counsel for the Petitioner, and Mr. K. Umar, learned counsel for the Respondent, and upon perusing the petition, the accompanying affidavit, the counter, the documents, and all other material papers on record, this court doth pass the following:

ORDER

1. This is an application filed by the petitioner/plaintiff under the provisions of Order 39, Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking an order of temporary injunction to restrain the respondent/defendant, his men,

agents, and servants from interfering with the petitioner's peaceful possession and enjoyment of the suit properties, more fully described in the schedule herein, till the disposal of the main suit.

Averments of the Petitioner/Plaintiff in brief:

2. The petitioner, who is the plaintiff in the substantive suit for permanent injunction, avers that the suit properties originally belonged to his father, Somanatha Gounder. He states that through a registered partition deed dated 30.05.1994, the suit properties were allotted to his share. Since then, he claims to be in continuous and peaceful possession and enjoyment of the same. It is his case that patta has been issued in his name for all properties except for item No. 3, for which an application is pending before the Tahsildar, Vaniyambadi. The petitioner has also produced kist receipts to show payment of land revenue.

3. The petitioner further submits that the respondent herein had previously instituted a suit in O.S.No.60/1999 against the petitioner, his father, and his brother, seeking declaration of title and permanent injunction. That suit was decreed on 10.12.2003, but only for an extent of 5.68 acres, which is less than the 5.82 acres claimed by the respondent therein. The petitioner contends that this decree has attained finality as no appeal was preferred.

4. The cause of action for the present suit and application arose on 20.08.2022, when the respondent, along with his associates, allegedly trespassed into the suit properties and threatened the petitioner, preventing him from carrying out agricultural activities. Following this incident, the petitioner lodged a police complaint on 22.08.2022. The petitioner asserts that he has a prima facie case, that the balance of convenience is in his favour, and that he will suffer irreparable injury if the injunction is not granted.

Averments of the Respondent/Defendant in his Counter in brief:

5. The respondent vehemently denies the petitioner's claims. He refutes the petitioner's title and possession over the suit properties and alleges that the petitioner has not approached this Court with clean hands, suppressing material facts.

6. The respondent contends that while O.S.No.60/1999 was indeed filed, the matter was resolved through a compromise, pursuant to which possession of the property was delivered to him in 2003. He argues that the petitioner cannot challenge his right and possession over the 5.82 acres after a lapse of nearly 19 years.

7. The respondent asserts that he possesses clinching evidence to disprove the petitioner's case and establish his own possession. He concludes that the petitioner has failed to establish a prima facie case or possession, and therefore, the balance of

convenience does not lie in his favour. He prays for the dismissal of the petition, stating that granting an injunction would cause him irreparable loss and hardship.

Points for Consideration:

8. Upon a careful consideration of the pleadings, documents filed, and the submissions of the learned counsels on either side, the following points arise for determination in this application:

- i. Whether the petitioner/plaintiff has established a **prima facie case** for the grant of a temporary injunction?
- ii. In whose favour does the **balance of convenience** lie?
- iii. Whether the petitioner/plaintiff would suffer **irreparable injury** if the temporary injunction is not granted?

Discussion and Findings:

On Point (i):

9. The first and foremost principle for the grant of a temporary injunction is the establishment of a prima facie case. This does not mean that the petitioner must prove his title conclusively at this stage, but that he must show that there is a serious question to be tried and that there is a high probability of him succeeding in the suit. The court

must look at the documents placed on record to form a preliminary opinion. The Hon'ble Supreme Court in the case of *Dalpat Kumar v. Prahlad Singh (1992) 1 SCC 719* has laid down that the grant of temporary injunction is a discretionary relief and the court must exercise such discretion judiciously and not arbitrarily.

10. The petitioner has produced a copy of the registered partition deed dated 30.05.1994, which prima facie suggests that the suit properties were allotted to his share. He has also filed kist receipts and patta documents. A registered instrument, coupled with revenue records, carries significant presumptive value regarding possession.

11. Conversely, the respondent, while disputing the petitioner's title and possession, has relied on a purported "compromise" in O.S. No. 60/1999. However, no copy of the said compromise memo or the final decree passed in terms of such a compromise has been placed before this court. A mere oral assertion of a compromise, especially when the petitioner contends that the suit was decreed on merits for a lesser extent, cannot be given precedence over the registered documents filed by the petitioner at this interlocutory stage. The respondent's claim of having been in possession since 2003 is, as of now, a bald assertion unsupported by documentary evidence.

12. The learned counsel for the respondent argued that the title is disputed and the interim relief sought is the same as the main relief. While it is true that courts are

cautious in granting such reliefs, it is also the duty of the court to protect the possession of a party who, on the basis of the documents available, appears to be in lawful possession. The question of title is a complex issue that requires detailed evidence and can only be adjudicated after a full trial. For the limited purpose of this application, this court is concerned with lawful possession as on the date of the suit. The documents filed by the petitioner strongly support his claim of possession. Therefore, this court is of the considered view that the petitioner has successfully established a prima facie case.

On Points (ii) and (iii):

13. These two points are intrinsically linked and are taken up for discussion together. The court must weigh the inconvenience and hardship that would be caused to the petitioner if the injunction is refused against the hardship that would be caused to the respondent if it is granted.

14. If the injunction is granted, the respondent is merely restrained from interfering with the status quo. If his contention that he is already in possession is true, he can establish the same during the trial. The injunction would only prevent him from taking the law into his own hands. It causes him no legal injury.

15. However, if the injunction is refused, and the petitioner's allegations of interference are true, he would be left vulnerable to threats and potential dispossession.

The very purpose of filing the suit for permanent injunction—to protect his peaceful possession—would be defeated. The loss of an agricultural season and the constant threat of interference cannot be adequately compensated in terms of money. Such an injury, which disrupts the peaceful life of a citizen and could lead to a breach of peace, is indeed irreparable.

16. Therefore, the balance of convenience squarely lies in favour of granting the injunction to preserve the subject matter of the suit until the rights of the parties are finally determined. Refusing the injunction would cause irreparable injury to the petitioner.

Result:

17. In the light of the above discussion, this court finds that the petitioner has satisfied all three essential conditions for the grant of a temporary injunction. The petition is deserving of merit and is accordingly allowed.

18. In the result, this petition is **ALLOWED**. An order of temporary injunction is hereby granted restraining the respondent/defendant, his men, agents, and servants from interfering in any manner with the petitioner/plaintiff's peaceful possession and enjoyment of the suit properties, pending disposal of the main suit.

19. There will be no order as to costs in this application.

It is made clear that any observations made herein are purely for the purpose of disposing of this interlocutory application and shall not, in any way, influence the outcome of the main suit, which shall be decided on its own merits based on the evidence adduced by the parties during the trial.

Directly typed by me in my official laptop, corrected by me, and pronounced in open court, this the 2nd day of August, 2025.

**DISTRICT MUNSIF,
VANIYAMBADI.**

ANNEXURE:

Petitioner side Witness: Nil

Petitioner side documents: Nil

Respondent side Witness: Nil

Respondent side documents: Nil

**DISTRICT MUNSIF,
VANIYAMBADI.**