

IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM, VELLORE DISTRICT.

**Present : Thiru.M.N.Rajanandhivarmasiva, B.E., L.L.B.,
District Munsif, Gudiyattam.**

Thursday, the 22nd day of September 2022

IA.1/2020 in OS.No.139/2020

CNR.No.TNVL10-000267 – 2020

R.Sathiyamoorthy.

...Petitioner/Plaintiff.

// Versus //

1. K.Anandan.

2. A.Revathiammal.

...Respondents/Defendants.

This petition came up on 22.09.2022 before me for final hearing in the presence of **Thiru.K.M.Boopathi., M.L.,** Advocate for Petitioner/Plaintiff **Thiru.S.Senthil Azhagan., B.A., B.L.,** Advocate for the Respondents/Defendants upon hearing both sides and having stood over for consideration, this court delivered the following

ORDER

Petition filed Under Order 39 Rule 1 and 2 and Section 151 of CPC to grant ad-interim injunction restraining the respondents/defendants and their men, servants and agents from any manner interfere with the plaintiff's peaceful possession and enjoyment of the suit schedule mentioned property till the disposal of this suit and also grant ad-interim injunction on the similar line till the disposal of this petition and pass such other orders according to the circumstances of the case.

I. Brief Averments of the Petition :-

1.1. Originally, the suit schedule mentioned property and other properties were the properties of the 2nd defendant herein and she purchased the same from the 1st defendant by way a registered sale dated 25.04.2001 bearing D.No.312/2001 for valid and binding consideration. Since, the date of purchase the 2nd defendant has been in possession and enjoyment of the suit schedule mentioned property and other

properties as absolute owner without any interruption. Subsequently, the 2nd defendant has been in possession and enjoyment of the suit schedule mentioned property and other properties as absolute owner without any interruption.

1.2. Subsequently, the 2nd defendant has sold the suit schedule mentioned property to his by way of registered sale deed dated 13.06.2001 vide D.No.419/2001 for valid and binding consideration. Since, the date of purchase petitioner have been in possession and enjoyment of the suit schedule mentioned property as absolute owner without any interruption. Subsequently, petitioner have obtained plan approval for construction of house from the Pernambut Municipality and constructed house and living along with his family in the suit property.

1.3. Petitioner also obtained electricity service connection and also paying electricity consumption charges to the concern board. Petitioner have also paying property tax and other taxes to the Pernambut Municipality to the suit property. Things are being so, the defendants are having property adjacent to the suit schedule mentioned property and they are husband and wife. The defendants alone sold the suit property to his and since then petitioner have been in possession and enjoyment of the same. Now, the defendants have no right or title over the suit property and they having property adjacent to the suit schedule mentioned property.

1.4. Petitioner have constructed a house in the suit property with compound wall in and around of the house. Now, on 09.11.2020 the defendants are joined together along with their men, agents and servants demolished the southern side wall of the suit property and thereby attempting to interfere with his peaceful possession and enjoyment of the suit property. Petitioner have also given complaint against the

defendants before the Pernambut Police Station but the police official has failed to take necessary action against the defendants under the political influence of them and issued CSR receipt only.

1.5. Once again the defendants are joined together along with their men, agents and servants on 22.11.2020 attempting to interfere with his peaceful possession and enjoyment of the suit schedule mentioned property in order to grab the same and the same was defeated by him after great struggle. The above said act of the defendants is highly illegal and unlawful. Petitioner have been in possession and enjoyment of the suit schedule mentioned property as absolute owner without any interruption. The defendants are not in possession and enjoyment of the suit property and they are third parties to the suit property and they have no right or title over the same.

1.6. If the defendants are succeed in their unlawful attempt to interfere his peaceful possession and enjoyment of the suit schedule mentioned properties, petitioner will be put to great loss and hardship. There is no other way for him except to approach this Court by way of this present suit for Permanent Injunction. Hence, petitioner filing the present application for ad-interim injunction.

II. Brief Averments of the Counter :-

2.1. That the schedule mentioned property and other properties was belonged to the 2nd respondent and sold the schedule mentioned property to this petitioner and also true this respondent is having property adjacent to the petition mentioned property and they are husband and wife.

2.2. This respondent never interfere the petitioner's property. The petitioner and his wife themselves voluntarily interfere this respondent's proeprty and to grab some

extent. For this purpose the respondent has filed commissioner application before this Court and same is pending for counter by petitioner side. For the purpose of this petition and suit false complaint was given. The other allegations in para 3 of the affidavit are not true and not correct and also denied. It has to be proved by the petitioner only.

2.3. Viewed from any angle the petition is malafide under no merits are basis. It is a blackmailing venture. He reserves her right to file additional counter if necessary. The petitioner has not approached this Court with clean hands. There is no cause of action. The schedule of property is in correct. Value of it stated is low. Therefore, dismiss the petition with cost.

No documents or evidences produced or adduced on either side.

III. Point for Considerations: -

1. Whether the petition is to be allowed or not?

Heard both sides and records perused

3.1. Petitioner contended that the suit schedule mentioned property purchased by way of registered sale deed dated 13.06.2001 vide D.No.419/2001 for valid and binding consideration. Since, the date of purchase petitioner have been in possession and enjoyment of the suit schedule mentioned property as absolute owner without any interruption, on 22.11.2020 attempting to interfere with his peaceful possession and enjoyment of the suit schedule mentioned property in order to grab the same and the same was defeated by him after great struggle. If the defendants are succeed in their unlawful attempt to interfere his peaceful possession and enjoyment of the suit schedule mentioned properties, petitioner will be put to great loss and hardship. There

is no other way for him except to approach this Court by way of this present suit for Permanent Injunction. Hence, petitioner filing the present application for ad-interim injunction.

3.2.Respondents contended that the respondent is having property adjacent to the petition mentioned property and respondent never interfere the petitioner's property. The petitioner and his wife themselves voluntarily interfere this respondent's property and to grab some extent. For this purpose the respondent has filed commissioner application before this Court and same is pending for counter by petitioner side. The petitioner has not approached this Court with clean hands. There is no cause of action. The schedule of property is incorrect. Therefore, dismiss the petition with cost.

3.3.The suit has been filed for bare injunction, The petitioner states that the respondents are trying to disturb the peaceful possession of plaintiffs right over the suit property, The respondent states that the palintiff purchased the property from the 2nd respondent , they are in the peaceful possession of their property, The petitioner and his wife themselves voluntarily interfere this respondent's property and to grab some extent and the schedule of property is incorrect. To appoint the advocate commissioner petition is pending, both sides have not chosen to mark any documents, the main relief sought by the petitioner is only for the bare injunction, now the respondent raised the plea that the suit property is incorrect and is belongs to him, when the title is disputed the petitioner shall prove the same before this court. The averments of the petitioner is very vague and not clear. He has not given separate averments in the Petition and instead, he has simply reproduced the plaint averments.

Under such circumstances this court views the prima facie case is not made out in favour of the petitioner.

In the result this petition is dismissed, no order as to costs.

Directly Dictated to Steno typist, typed by her corrected and pronounced by me in the open Court on this the 22nd day of September 2022.

**Sd/-M.N.Rajanandhivarmasiva,
District Munsif,
Gudiyattam.**

Petitioner side Witnesses and Exhibits :- Nil

Respondents side Witnesses and Exhibits :- Nil

**Sd/-M.N.Rajanandhivarmasiva,
District Munsif,
Gudiyattam.**