

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE  
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.B.,**  
Additional District Judge, Virudhunagar

Friday, the 28<sup>th</sup> day of October, 2022

**IA No.101/2022 in OS.No.2/2014 (C.F.1/2022)**

A.R.V.Jegannathan

... Petitioner/6<sup>th</sup> Defendant

Vs

1) J.Vasanthai  
2) M.Sheelapriya  
3) Abarna

... Respondents/Defendants 11, 12  
& 43

This petition came up on 14.10.2022 for hearing before me in the presence of Thiru.N.Solairaj, Learned advocate for the petitioner, of Thiru.P.Venkatesan, Learned advocate for the respondents and upon considering all material records in this case and hearing the arguments on both sides, and having stood over till this day for consideration and this court doth deliver the following

**ORDER**

This petition is filed by the petitioner/6<sup>th</sup> defendant in OS No.2/2014 for an order of temporary injunction restraining the respondents from alienating or encumbering the scheduled properties.

2. It is alleged in the affidavit that the suit was filed by the petitioners' sisters for partition. After filing the suit now the plaint schedule properties item 78 to 95 were added by way of amendment. With respect to the other properties, this petitioner has already filed IA No.12/2021 and IA No.75/2019 and got order of injunction not to alienate those properties. Now, the respondents are trying to sell the properties which were now added. If succeeded in their attempt to sell the

properties, the purchasers would interfere with joint possession of the petitioner and subsequent purchasers will have to be added in this case. Hence, this petition.

3. The respondents filed counter contending that the petition is not maintainable. Already properties of 10<sup>th</sup> defendant were partitioned before elders which was upheld by the Court in AS No.47/1998. The 1<sup>st</sup> defendant filed suit against his brothers and sisters and against father Venkitasamy Naicker as OS No.76/1996. Against the judgment and decree, Venkitasamy Naicker and others filed appeal and the appeal was allowed and OS No.76/1996 was dismissed. Said Venkitasamy Naicker allotted properties to his legal heirs in the presence of elders and who are enjoying their respective shares. The petitioner/6<sup>th</sup> defendant again filed OS No.90/2000 before District Munsif Court, Virudhunagar and that suit was dismissed. Against the judgment and decree, the 6<sup>th</sup> defendant filed appeal in AS No.21/2007 which was also dismissed. So, the partition with respect to the family properties were already upheld and only with an intention to sell the suit properties this petition is filed.

4. There is no evidence on both sides.

5. The point for consideration is Whether this petition deserves to be allowed?

6. Heard both sides.

**7. Point:**

The petition is filed by the petitioner who is the 6<sup>th</sup> defendant in this case for temporary injunction not to alienate the properties. The respondents herein are the defendants 11, 12 and 43. It is seen from the records that main suit for partition which is pending from 2013. Now, by way of amendment some properties were newly added and with respect to those properties, the relief of temporary injunction is prayed for. It is the argument on the side of the petitioner that the

respondents are trying to sell the properties during the pendency of this case and in such case, the purchasers will have to be added as defendants and they would interfere with the joint possession of this petitioner. It is the contention on the side of respondents that already all the properties were partitioned in the presence of elders and all of them are in possession of their respective share. Since, the suit is for partition, admittedly all the parties are sharers in the suit properties. So, a person who is having right of alienation over his share in the property cannot be enjoined from alienating the property. But, till the properties are partitioned by way of metes and bounds, the sharers cannot have a right to alienate any specific portion or specific property. So, this court is of the view that temporary injunction can be granted not to sell any specific portion or specific property till the disposal of the case.

8. In the result, this petition is allowed and the respondents/defendants 11, 12 & 43 are enjoined from alienating any specific portion of property or specific property during the pendency of this case. No order as to costs.

Dictated to the steno-typist, typed by him, corrected and pronounced by me in open court, on this the 28<sup>th</sup> day of October, 2022.

(Sd.) T.V.Hemanandakumar,  
Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the petitioner:

Nil.

Witness and Exhibits on the side of the respondents:

Nil

(Sd.) T.V.Hemanandakumar,  
Additional District Judge,  
Virudhunagar.

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Additional District Court  
Virudhunagar  
IA No.101/2022 in OS No.2/2014  
**ORDER**  
Dated: 28.10.2022  
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