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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

CMP.Nos.10806 & 3671 of 2025

in

S.A.No.575 of 2013

P.Siddharthan

.. Petitioner in both CMPs

VS

1.Villarasi

2.Vimala

3.The Commissioner,

Virudhachalam Municipality,  
Virudhachalam.

.. Respondents in both CMPs

Prayer in CMP.No.10806 of 2025: Petition filed under Order 39 Rule 1 & 2 of CPC to grant an ad-interim injunction restraining the 3<sup>rd</sup> respondent herein their men, agents from putting up any constructions in the schedule mentioned property which is the subject matter in O.S.No.1058/1992 on the file of Learned Principal District Munsif, Virudhachalam pending above second appeal.

Prayer in CMP.No.3671 of 2025: Petition filed under Order 3 Rule 2 of CPC to grant permission to the petitioner to proceed with the above second appeal on behalf of the petitioner/2<sup>nd</sup> Respondent, as a Power Agent.

(In both CMPs)

For Petitioner : Mr.J.Shanmuga Sundara Babu

For Respondents : Mr.P.Gurunathan (for R3)



### COMMON ORDER

The learned counsel appearing for the petitioner seeks permission of this Court to withdraw CMP.No.3671 of 2025 and he has also made an endorsement in the petition to that effect.

2.Permission granted. Accordingly, CMP.No.3671 of 2025 in S.A.No.575 of 2013 is dismissed as withdrawn.

3.As far as CMP.No.10806 of 2025 is concerned, this is an application seeking an order of injunction restraining the 3<sup>rd</sup> respondent/the plaintiff in O.S.No.1058 of 1992 from proceeding further with any construction over the suit schedule mentioned property. O.S.No.1058 of 1992 is a suit presented by the Commissioner, Vridhachalam Municipality seeking relief of declaration of title and for injunction.

4.It is the case of the plaintiff that the property situated in S.No.99/3 belongs to it and the defendants 15 and 16 who are the appellants in A.S.No.9 of 2011 before the learned Principal Subordinate Judge, Vridhachalam are attempting to encroach upon the Municipality holdings. The Municipality totally impleaded 16 defendants, it succeeded and proving that S.No.99/3 belongs to it and the defendants are only entitled to the property situated in S.No.99/16.



5.The finding of the trial Court that the Municipality is the owner of S.No.99/3 was confirmed by the learned Principal Subordinate Judge in and by way of a common judgment in A.S.Nos.9, 41 and 48 of 2011 dated 21.02.2013.

6.The Municipality commenced construction in S.No.99/3 which has given a cause of action for the present application for injunction. According to the learned counsel for the petitioner, in case, the physical features of the property are altered and the appellants were to succeed in the Second Appeal, they will be put to irreparable loss and prejudice.

7.Per contra, the learned counsel appearing for the Municipality states that the construction is put up pursuant to the allocation of funds by the State of Tamil Nadu for a scheme titled KNMT for the financial year 2024-25 and from the fund so collected, the Municipality is constructing a commercial complex so as to enhance its financial stability. He pleads that concurrently, the Courts have come to a conclusion that S.No.99/3 belongs to the Municipality and not to the appellants. Hence, he seeks for dismissal of the application.

8.I have carefully considered the submissions of both sides. I have gone through the records.

9.In case, an order of injunction is granted and the Municipality



does not put up a construction, then the funds granted to it would lapse.

Concurrently, finding has been rendered saying S.No.99/3 belongs to the Municipality and it cannot be confused with S.No.99/16 which belongs to the appellants. The plaintiff has obtained a decree in the year 2011 and it has been in force till date. Hence, there is no prima facie case in favour of the petitioners.

10.Once Courts below have concluded that the Municipality is the owner, it is free to put up any construction, if it so desires. However, to balance the interests of both sides, the following order is passed:

- (i) CMP.No.10806 of 2025 is dismissed;
- (ii) Any constructions made by the Municipality is subject to the result of the Second Appeal;
- (iii) In the event, the Second Appeal is allowed, the Municipality will remove the superstructure so erected at its cost without claiming equity.

03.11.2025

vs

To

The Principal District Munsif,  
Vridhachalam.



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V. LAKSHMINARAYANAN, J.

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