



C.M.A.No.2597 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.2597 of 2025

and

C.M.P.No.21829 of 2025

1. Arumugam
2. Pappa
3. Kumar @ Devi
4. Manickam

... Appellants / Respondents /
Defendants 1,2,7 & 12

-vs-

Sivaraj

... Respondent/Petitioner/Plaintiff

PRAYER: This Civil Miscellaneous Appeal is filed under Order 43 Rule 1(r) of Code of Civil Procedure against the Order passed in I.A.No.2 of 2024 in O.S.No.514 of 2024 dated 08.07.2025 on the file of the I-Additional District Judge, Salem.

For Appellants : Mr.R.Jayaprakash

For Respondents : Mr.K.R.Samratt



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JUDGMENT

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This Civil Miscellaneous Appeal has been preferred by the defendants 1, 2, 7 and 12 against the orders passed in I.A.No.2 of 2024 in O.S.No.514 of 2024 on the file of I-Additional District Judge, Salem.

2. Parties are indicated herein as per their litigative status and ranking before the trial Court.

3. The sole plaintiff Sivaraj, S/o.Kandhasamy laid a suit against the defendants, twelve in number, for the relief of declaration of title to the suit property and for consequential permanent injunction not to interfere with the peaceful possession and enjoyment of the suit property and for other relieves.

4. Defendants 1 and 2 (Arumugam and his wife Pappa), filed written statement denying the averments made in the plaint. While so, the plaintiff



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took out an application in I.A.No.2 of 2024 under Order 39 Rules 1 and 2 of CPC for an order of temporary injunction restraining the defendants 1, 2, 7 and 12 not to make any encumbrance over the petition mentioned property.

5. Despite the receipt of notice, the respondents/defendants 1, 2, 7 and 12 neither entered appearance nor appeared through counsel and they were set ex-parte on 09.12.2024.

6. In the affidavit, it has been stated that the 1st defendant is employed in the Tamil Nadu Registration Department, deceitfully transferred properties in the name of his mother-in-law, Nachayee through a sale deed. Though the transaction appears to be purchase, in reality, the properties of Perumayee and Palani Mooppan were exchanged to compensate the similar portion received by Periyanna Mooppan in Survey No.214/1 and exchange deed is dated 24.12.1986 in Doc.No.1366 of 1986



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at the S.R.O, Magundanchavadi. It has been further averred by the petitioner that the defendants 1, 2, 7 and 12 have taken steps to alienate the petition mentioned properties to some third parties. Hence, the petition.

7. The learned counsel for the appellants/respondents would submit that in fact the appellants/respondents do not have any intention to alienate the suit property and with incorrect particulars, the said order was obtained by the sole plaintiff.

8. Per contra, the learned counsel for the respondent/plaintiff would *inter-alia* contend that as the respondents were taking hectic steps to dispose of the property forced him to file application for interim injunction not to create any encumbrance over the suit property.

9. It appears that in respect of Survey No.231/12E and Survey



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No.219/4, the SRO, Magudanchavadi issued Refusal Cheque Slip

No.RFL/Magudanchavadi/Book2/2 dated 05.05.2025. In respect of the

said refusal cheque slip, the 1st defendant and his wife moved separate

writ petitions for issuance of Certiorarified Mandamus in W.P.Nos.25572 of

2025 and 25569 of 2025 and they were dismissed as withdrawn. Sale

deeds in respect of suit properties are marked as Exs.P1 to P3 and the

subsequent documents executed in respect of suit properties have also

marked as Exs.P5 to P7. Revenue documents are marked as Ex.P4 and

P12 (Patta). It appears that the plaintiff had given objection petition to the

SRO, Magudanchavadi not to register any document in respect of Ex.P15.

In consideration of the plaint details as well as documents marked on the

petitioner/plaintiff side, the trial Court has granted ad-interim injunction in

favour of the plaintiff by restraining the respondents/defendants not to

create any encumbrance over the petition mentioned property till disposal

of the suit.



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10. The petitioners have marked the title deeds in respect of sale deeds namely Ex.P1 to P3. Other connected documents have also been marked as Exs.P5, P6 and P7. Coupled with the title deeds, Patta has been marked to prove the possession of the plaintiff to the suit property.

11. It is pellucid that the plaintiff/petitioner has made out a *prima facie* case and therefore, the balance of convenience is also in favour of the plaintiff. In such a situation, if the order of ad-interim injunction is not granted it would result in multiplicity of proceedings and would cause loss to the petitioner. Therefore, the trial Court, has rightly granted order of temporary injunction not to create encumbrance over the petition mentioned property till the disposal of the suit.

12. Taking into account the above said details, without raising any objections before the trial Court in the said application, and after grant of order of temporary injunction, the contentions put-forth by the



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appellants/defendants 1, 2, 7 and 12 are not sustainable in law.

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13. Above being the position, this Civil Miscellaneous Appeal stands dismissed in the admission stage itself. The trial Court shall dispose of the suit within a period of eight months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2025

ssn

R. KALAIMATHI, J.,

ssn

To

1. The I Additional District Judge,
Salem.
2. The Section Officer,
V.R.Section,

7/8



High Court of Madras,
Chennai.

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