

C.R.P.(PD)(MD).No.828 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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RESERVED ON: 16.04.2025

DELIVERED ON: 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(PD)(MD).No.828 of 2025
and CMP(MD).No.4428 of 2025**

M.N.Ramesh

....Petitioner/ Appellant/ Petitioner/Plaintiff

Vs

**1.Arulmigu Meenakshi Sundareswarar Temple
Represented by its Executive Officer/ Joint Commissioner
Madurai**

**2.Arulmigu Teppakulam Mariamman Temple
Represented by its Joint Commissioner
Kamarajar Salai
(Ramanathapuram Road)
Madurai 625 009**

**3.The Madurai City Municipal Corporation
Represented by its Commissioner
Anna Maligai, Tallakulam
Madurai**

**..Respondents/ Respondents/
Respondents/ Defendants**

PRAYER: Civil Revision Case is filed under Article 227 of Constitution of India, to pass an order setting aside the fair and executable order dated 19.11.2024 passed in the appeal in CMA.No.4 of 2020 on the file of the Principal Subordinate Court, Madurai confirming the fair and executable order dated 03.12.2019 passed in the petition in I.A.No.570 of 2019 in O.S.No.592 of 2019 on the file of the Principal District Munsif Court, Madurai Town and allow the same.



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WEB COPY For Petitioner : Mr.J.Barathan

For Respondents: Mr.S.Manohar for R1

: Mr.K.K.Kannan for R2

ORDER

The plaintiff in O.S.No.592 of 2019 on the file of the Principal District Munsif, Madurai Town has filed the present civil revision petition challenging the dismissal of his interim injunction application which was confirmed by the Principal Subordinate Judge, Madurai in CMA.No.4 of 2020.

(A)Factual Matrix:

2.The revision petitioner herein has filed the above said suit for the relief of permanent injunction restraining the defendants 1 and 2 from putting up any construction wall or fence on the eastern boundary of Item No.1 of the schedule mentioned properties abutting the Teppakulam West Street and thereby obstructing the free ingress and egress of the plaintiff from Item Nos.1 and 2 of the schedule mentioned properties through Teppakulam West Street (3rd item).

3.A perusal of the plaint averments reveal that the plaintiff had purchased first item of the schedule of property under a registered sale deed dated 17.04.2018. Under the said document, he had purchased 1670 sq.ft in T.S.No.225/2D. A perusal



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of the boundary reveals that the eastern boundary is shown as Teppakulam West Street.

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4.The plaintiff has purchased item No.2 (West of item No.1) by way of a registered sale deed dated 12.09.2017. Under the said sale deed, he had purchased as extent of 1718 sq.ft in T.S.No.225/2D. A perusal of the boundary recital reveals that on all four sides the said property is surrounded by private properties and there is no access whatsoever to the said property.

5.According to the plaintiff, he is having access only through Teppakulam West Street for first and second schedule of properties. The Teppakulam West Street is shown as Item No.3 for the suit schedule property having T.S.No.210. It is the allegation of the plaintiff that the defendants 1 and 2 have started to dig up in front of his access to Teppakulam West Street for the purpose of putting up pillars to erect a compound wall. In case if they erect a compound wall, the entire access to the Teppakulam West Street would get affected.

6.On the basis of the above said averments, the suit was filed seeking permanent injunction. Along with the suit, the plaintiff had filed I.A.No.570 of 2017 seeking interim injunction.

7.The defendants 1 and 2 herein had filed a counter contending that all the four roads surrounding Mariamman Teppakulam in Vandiyur Village belong to the

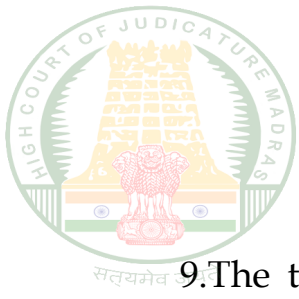


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first defendant. Those streets were leased out to Madurai Municipal Corporation on 21.11.1956 only for the purpose of maintenance. The corporation does not own the road. The space between the road and the private property of the plaintiff is still owned by the first defendant temple.

8.It was further contended that various suits have been filed by the temple as against the Municipal Corporation with regard to these properties and those suits have ended in favour of the temple. It was further contended that the Hon'ble Division Bench of Madurai Bench of Madras High Court had passed various orders in W.P.(MD).No.23017 of 2018 where directions were issued to the temple and the Corporation for removal of encroachment and maintenance of the road and for creation of facilities. Only in order to implement the order of the Hon'ble Division Bench and to prevent any encroachment, a wall was attempted to be put up. The plaintiff is not having right of access through the 3rd item of the property. On the other hand, the plaintiff can have access through Ramnad road. Neither the plaintiff nor his predecessor in interest were having any access through Teppakulam West Street. Merely because his sale deed reflects access through Teppakulam West Street, that will not confer any right upon the plaintiff. The third item of property being owned by the temple, interim injunction cannot be sought for as against the real owner.



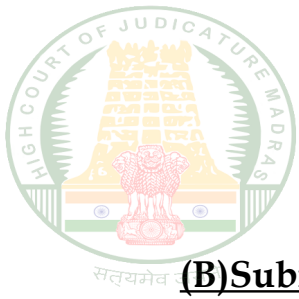
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9.The trial Court as well as the First Appellate Court after considering the submissions made on either side and the judgment of the Hon'ble Division Bench in WP(MD).No.23017 of 2018 had proceeded to dismiss the injunction application on the ground that the plaintiff has suppressed the directions issued by the High Court in the writ petition despite the plaintiff being a party therein. The Courts below have further found that the public interest and public convenience has to be taken into consideration before granting an order of interim injunction in favour of the plaintiff.

10.The Courts below have also found that the plaintiff has admitted that he is having road access through Ramnad road. It was further found that the 3rd item of the property is not a public road and it belongs to the first defendant temple. In such circumstances, as a matter of right, the plaintiff cannot have any access to Teppakulam West Street. The Courts below also found that the plaintiff has not made out a prima facie case and there is no balance of convenience in favour of the plaintiff.

11.On the above said findings, the Courts below have dismissed the injunction application. Challenging the same, the present civil revision petition has been filed by the plaintiff.



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(B) Submissions of the counsels appearing on either side:

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12.The learned counsel for the revision petitioner submits that as far as the plaintiff in the present suit is concerned, the 3rd item of the property namely Teppakulam West Street is the only access to the road. On all other sides, there is private property. He had further contended that it is a public road ever as per the records of the Madurai Municipal Corporation.

13.In the injunction application, the Municipal Corporation has not filed their counter and they have accepted the case of the plaintiff. He had further contended that even though the property was leased out by the temple in favour of the Madurai Corporation, it was a road. For the maintenance of the said road, it was leased out to Madurai Corporation. At the time of leasing out, no other property was retained by the temple. Only road margin is left out. Therefore, the said property should also be construed to have been leased out only in favour of the Municipal Corporation. He had further contended that the street lights have been put up and drainage have also been created on either side of the road. It is a thorough road where all the vehicles are plying. In such circumstances, the said road can never be considered to be a private road belonging to the temple.

14.The learned counsel for the petitioner had further contended that the suits which are relied upon by the temple relate to encroachment of some shops put up



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during festival. Only if an encroachment is made on the road, the temple is entitled to make an objection. The temple cannot raise any objection with regard to the access of the road from the private property after having leased out the same to the Municipal Corporation. He had further contended that the suo moto public interest litigation initiated by the Hon'ble High Court also relates only to removal of encroachment and maintenance of the road.

15. Even though the plaintiff was a party to the writ petition, there was no prayer as against him and no order was passed as against him. Though an attempt was made to make a claim over the road margin, the Hon'ble Division Bench has refused to go into the said issue. In such circumstances, the Courts below ought not to have dismissed the injunction application on the ground that the plaintiff had suppressed the directions issued by the High Court. In fact, the plaintiff is not aggrieved over the directions issued by the High Court. The plaintiff is not making any attempt to encroach over the public road and he is only seeking access to the Teppakulam West Street.

16. Per contra, the learned counsel appearing for the defendant temple had contended that at the time of leasing out the roads to the Municipal Corporation, only a limited extent was leased out. Remaining portion was retained by the temple. Therefore, the temple has got every right to put up a compound wall enclosing their



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own property which was retained by him. He had further contended that the plaintiff is having access to Kamarajar road. Therefore, there is no necessity for him to open an access to Teppakulam West Street. There is no easement of necessity. When the road is not a public road, but owned by the first defendant, as a matter of right, the plaintiff cannot seek access to the Teppakulam West Street.

17.The learned counsel for the respondent had further pointed out that only in order to comply with the directions issued by the Hon'ble Division Bench in the Public Interest Litigation, a wall is attempted to be put up. Therefore, the plaintiff herein who was also one of the party to the said writ petition, having suppressed the direction, had filed the present suit. The balance of convenience is not in favour of the plaintiff. That apart, when the plaintiff is having access to a different road, no hardship would be caused to him by putting up a compound wall. He had further contended that the suit is ripe for trial and the issue could be decided finally, if a direction is issued for disposal of the suit. Hence, he prayed for dismissal of the order passed by the Courts below.

18.Heard both sides and perused the material records.

(C)Discussion:

19.The plaintiff had purchased the property under two documents dated 12.09.2017 and 17.04.2018 for an extent of 1718 sq.ft and 1670 _ sq.ft respectively in



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Survey No.225/2D. It is not in dispute that S.No.225/2D is the private property of the plaintiff and the temple has not made any claim over the said property.

20.The first defendant temple has entered into a lease deed on 21.11.1956 with Madurai Corporation leasing out three roads lying on the east, south and west of Madurai Teppakulam at Vandiyur. As per Clause(iii) of the said lease deed, the lessee was put in possession during the period of lease and he shall be entitled to form a roads on the demised premises and metal them at its own expense and shall maintain the same till the expiry of the lease.

21.A careful perusal of the description of the property shows that even at the time of leasing out the property, same was a road. In the said lease deed S.No.225 is shown as the western boundary. It is to be noted that S.No.225 has been purchased by the plaintiff in the present suit. Therefore, it is clear that between the private property of the plaintiff and the property that was leased out to the Madurai Corporation, no other land was retained by the first defendant temple for its use.

22.A perusal of the sale deed of the plaintiff dated 12.09.2017 reveals that he has no access whatsoever on all the four sides. A perusal of the next sale deed of the plaintiff dated 17.04.2018 shows that he has got access only through 3rd item of the property namely Teppakulam West Street. The property in the second sale deed is located just east of the property that was purchased under the first sale deed.



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Therefore, it is clear that other than Teppakulam West Street, the plaintiff is not having any access to a public road. Though it is contended by the defendant that the plaintiff is having access through Kamarajar road, which is on the northern side, the northern side of the plaintiff's property is owned by the other plaintiff namely the plaintiff in O.S.No.591 of 2019. Therefore, it is clear that other than Teppakulam West Street, the plaintiff is not having any access whatsoever. The Courts below have not properly gone through the boundary recitals in the lease deed executed by the temple as well as the boundary recitals found in the sale deed in favour of the plaintiff.

23.A perusal of the judgments of the civil Court relied upon by the temple clearly indicates that all those suits were filed only to prevent temporary constructions on the road during the festival season or putting up any stages for conducting meeting or political meeting in the road. Therefore, these judgments cannot be put against the present plaintiff who only seeks access to the road. In O.S.No.846 of 2003, the temple was successful in getting an injunction as against the Corporation from auctioning the temporary shops in the road. Therefore, it is clear that none of the civil suits, in which the first defendant temple was successful, has anything to do with the access to Teppakulam West Street.



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24.The Courts below have proceeded to dismiss the injunction petition on the ground that the plaintiff had suppressed the order of the Hon'ble Division Bench of Madurai Bench of Madras High Court in WP(MD).No.23017 of 2018. A perusal of the order reveals that suo moto writ petition was initiated by the High Court for issuing a mandamus to direct the Revenue, Corporation, Temple, Electricity Board and PWD officials to provide basic amenities and facilities to the public in that locality and for a direction to initiate proper action as against the contractors who are collecting exorbitant amount for parking of vehicles.

25.The writ petition was disposed of by way of final orders on 31.01.2019. In the said writ petition, the plaintiff is not a party. No directions have been issued to the temple to put up any construction whatsoever restricting access to Teppakulam West Street or to any other street in and around the Teppakulam. Directions were issued only for removal of encroachment and for providing various facilities to the general public.

26.One J.Vijay Anand has filed WP(MD).No.15961 of 2020 (not marked before the trial Court, but relied upon by the trial Court) seeking a mandamus directing the respondents to ensure that the entire extent of Teppakulam and the road and lands surrounding the four sides of Mariamman Teppakulam, Madurai belong to Arulmighu Meenakshi Sundareswarar Temple, Madurai are free from any



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encroachment of any nature whatsoever.

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27.A perusal of the prayer reveals that the 3rd item of the suit schedule property namely Survey No.210 Teppakulam West Street is also part of the prayer. In the said writ petition, an Advocate Commissioner was appointed and he has filed a report pointing out that except temporary shops selling certain eatables and certain entertainments for children, there are no encroachments in Teppakulam or in the roads around it. After recording the same, the writ petition was closed. In the said writ petition, an attempt was made by the learned counsel appearing for the temple that the temple has certain rights over the road and it can prevent private respondents from using the road as access. However, the Hon'ble Division Bench had pointed out that the said question cannot be addressed in a proceedings under Article 226 of the Constitution of India. In the said writ petition, the plaintiff is the 9th respondent. Therefore, it is clear that the writ petition was filed only for removal of encroachment in the road surrounding to Teppakulam .

28.Incidentally a submission made by the temple that they have got some rights to prevent the access to the road. The said arguments was not considered by the Hon'ble Division Bench and the writ petition was closed. Hence, it is clear that the non-filing of these judgments before the civil Court could not be considered to be a suppression. Only if the facts that are likely to be detrimental to the parties are



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suppressed, it should be construed to be a suppression of material facts and the relief could be denied. Therefore, the Courts below were not right in arriving at a finding that the plaintiff is not entitled to interim order on the ground that he had suppressed the order passed by the Division Bench in the writ petition.

29.The Courts below have not properly appreciated the fact that the plaintiff is not having access to any other road other than Teppakulam West Street. A perusal of the lease deed executed by the temple in favour of the Municipal Corporation dated 21.11.1956 clearly reveal that the plaintiff's property namely S.No.225 is shown as a boundary to the road that was leased out to the corporation. Therefore, there is no space in between the road and the private property of the plaintiff. That apart, the Court can also take judicial notice of the fact that it is a thoroughfare road where all the vehicles are being permitted to ply.

30.The defendant temple has attempted to put up a compound wall obstructing the access of the plaintiff alone. The access of other private parties has not been prevented by the first defendant temple. The neighbouring owners of the plaintiff are not prevented by the first defendant temple. Therefore, it is clear that the plaintiff's property has been cherry picked for preventing access to the public road. In case, if a wall is put up in front of the property of the plaintiff, he cannot have any access whatsoever.



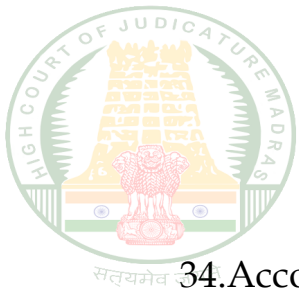
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31.The plaintiff has also produced records to show that Teppakulam West Street is shown as public road in the website of Madurai Corporation. It is be noted that though Madurai Corporation is arrayed as 3rd defendant in the suit, but they have not chosen to file a counter and they have supported the case of the plaintiff that it is a public road which is maintained by them. As long as the road continues to be maintained by Madurai Corporation, it should only be construed to be a public road. A person is entitled to have access to the public road from any point of his private property. In case, if any wall is put up claiming that some portion of the property is retained by the temple, it will completely close the access of the plaintiff to have public access. The plaintiff has made out a prima facie case.

32.In case, if an interim injunction is not granted, he will lose all his access to the road. On the other hand granting of interim order would not be any way be prejudicial to the defendant temple. Considering the balance of convenience and the hardship that is likely to be caused to the plaintiff, this Court is of the considered opinion that an order of interim injunction shall be granted in favour of the plaintiff, pending suit.

33.In view of the above said deliberations, the orders impugned in the revision petition are set aside and there shall be an order of interim injunction as prayed for, in favour of the plaintiff. I.A.No.570 of 2019 stands allowed.



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34. Accordingly, this Civil Revision Petition is allowed. The trial Court is directed to dispose of the suit on or before 31.10.2025 without being influenced by any one of the observations made by this Court. No costs. Consequently, connected miscellaneous petition is closed.

(*)35.The suit pending in O.S.No.592 of 2019, on the file of the I Additional District Munsif Court, Madurai Town is withdrawn and transferred to the file of the Principal District Munsif Court, Madurai Town, to be tried along with O.S.No.591 of 2019. Both the suits shall be disposed of on or before 31.10.2025."

Sd/-

30.04.2025

(*)Para 35 inserted as per the order of the Ho'ble Court, dated 12.06.2025 made by the Hon'ble RVJ

Sd/-

Assistant Registrar

// True Copy //

/06/2025

Sub Assistant Registrar
(CS- I/ II / III / IV)

msa

To:-

(*)To be substituted to the order already despatched on 05/06/2025

To

1.The Principal Subordinate Judge,
Madurai.



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2.The Principal District Munsif,
Madurai Town.

3.The Section Officer,(2 copies)
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.BARATHAN, Advocate (SR-30045[F] dated 02/05/2025)

+1 CC to M/s.S.MANOHAR, Advocate (SR-30073[F] dated 02/05/2025)

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and CMP(MD).No.4428 of 2025

30.04.2025

KVL(16/05/2025) 16P/ 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17.07.2023.

jj/16.06.2025 16P/7 C

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