



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1984 of 2021

and

C.M.P.(MD).No.10642 & 10643 of 2021

M.Rajakani

...Petitioner

Vs.

1.Chinnadhurai

2.Peachimuthu

3.Maharajan

4.Patturaja

5.Sudalai

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 25.10.2021 passed in I.A.No.121 of 2019 in O.S.No.40 of 2019 on the file of the learned District Munsif, Sathankulam and consequently reopen the said Interlocutory Application.

For Petitioner : Mr.R.Vigneshkumar

For R-1 to R-5 : Mr.R.Balakrishnan

R-2 to R-4 : Set *ex parte*

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ORDER

This Civil Revision Petition has been filed to set aside the order dated 25.10.2021 passed in I.A.No.121 of 2019 in O.S.No.40 of 2019 on the file of the learned District Munsif, Sathankulam, and consequently to reopen the said Interlocutory Application.

2. The petitioner herein originally filed a suit in O.S.No.6 of 2019 before the learned Vacation Judge, Thoothukudi, seeking bare injunction restraining the respondents, their agents, servants, or anyone claiming under them from constructing a compound wall or causing any obstruction in the common pathway situated in Survey No.95/1C1, more fully described in the Schedule-B property, thereby preventing the respondents and their family members from enjoying free and peaceful access to the Schedule-A property. Along with the said suit, the petitioner also filed I.A.No.2 of 2019 under Order XXXIX Rule 1 CPC seeking interim injunction, and the learned Vacation Judge granted interim injunction on 09.05.2019, restraining the respondents from putting up any construction over the suit Schedule-'B' and 'C' property till 23.05.2019. Thereafter, the suit was transferred to the file of the learned District Munsif, Sathankulam, and renumbered as O.S.No.40 of 2019, while the interlocutory application was renumbered as I.A.No.121 of 2019. Though notice was served to the respondents, they failed to appear before the trial Court. Consequently, R1 was set *ex parte* on 14.06.2019 and R2 to R4 were set *ex parte* on



17.03.2020. The trial Court, instead of proceeding with the interim injunction application, closed the application without any counter or order vacating the earlier interim injunction, which is procedurally unsustainable. Once an interim injunction is granted under Order XXXIX Rule 1 of CPC, it can be vacated only in the manner known to law. The mere act of closing the application without passing a specific order is not legally tenable.

3. The learned counsel appearing for respondent Nos.1 and 5 reported “No Instructions”.

4. In view of the above, this Court is of the opinion that the order of the trial Court dated 25.10.2021 is liable to be set aside. Accordingly, the impugned order passed in I.A.No.121 of 2019 in O.S.No.40 of 2019 is hereby set aside. The interim order dated 09.05.2019 shall stand restored and shall continue to remain in force. However, liberty is granted to respondent Nos. 1 and 5 to file a petition to vacate the interim injunction, if they are so advised. If such a petition is filed, the trial Court shall consider the same on its own merits and in accordance with law.

5. Since R2 to R4 were already set ex parte, their personal appearance is dispensed with.



6. Accordingly, the Civil Revision Petition is allowed. No costs.

Consequently, the connected Miscellaneous Petitions are closed.

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24.06.2025

Internet: Yes/No

Index: Yes/No

TSG

To

1. The District Munsif, Sathankulam.

2. The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

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