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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 603 of 2026 and

CMP No.3361 of 2026

1. Ramayal, W/o.Chenniyappa gounder,
Door No.3/203, Onnakaradu,
Mettukadu, Karattupalayam Village,
Nambiyur Taluk, Erode District.
2. Thandavamoorthy,
S/o.Chenniyappa Gounder,
1/46-B, Sellappampalayam,
Kovai to Sathy Main Road,
Annur Taluk, Coimbatore District.
3. Natarajan, S/o.Avinasiyappan,
160, Palaniappa Nagar,
Suramangalam, Salem District.
4. Subramaniam, S/o.Karuppanna Gounder,
441, Thavayatharar Thottam,
Onnakaradu, Mettukadu,
Karattupalayam Village,
Nambiyur Taluk, Erode District.
5. Arulprakash, S/o.Thirumurthy,
11/172, Onnakaradu, Mettukadu,
Karattupalayam Village,
Nambiyur Taluk, Erode District.
6. Varadharajan, S/o.Ramalingam Pillai,
11/171, Onnakaradu,
Mettukadu, Karattupalayam Village,
Nambiyur Taluk, Erode District.

..Petitioner(s)



Vs

1. V.K.Ramasamy, S/o.Komarasamy gounder,
VKR Thottam, Onnakaradu,
Mettukadu, Karattupalayam Village,
Nambiyur Taluk, Erode District.
2. Dhanabakkiam,, W/o.V.K.Ramasamy,
Onnakaradu, VKR Thottam,
Mettukadu, Karattupalayam Village,
Nambiyur Taluk, Erode District.
3. Divya Dhanabakiyam, W/o.Anbu Chezhan,
Rep. by Power Agent V.K.Ramasamy,
Onnakaradu, VKR Thottam,
Mettukadu, Karattupalayam Village,
Nambiyur Taluk, Erode District.
Now residing at 4-Hubbell Road,
Ontario, Brampton -L6Y2 A5,
Toronto, Canada.

..Respondent(s)

Prayer: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal Order dated 10.09.2025 made in CMA.No.2 of 2023 on the file of the Sub Court, Gobichettipalayam, Erode District, reversing the fair and decretal order dated 05.08.2023 made in IA.No.03 of 2022 in OS.No.115 of 2022 on the file of District Munsif Court, Gobichettipalayam, by allowing this Civil Revision Petition.

For Petitioner(s): Mr. N.Manoharan

For Respondent(s): Mr. Muthuchharan Sundresh
For Caveators/ R1 To R3



ORDER

This Civil Revision Petition has been filed challenging the order passed by the first appellate Court, allowing the appeal filed by the respondents 1 to 3/ defendants and consequently dismissing the application filed by the petitioners/ plaintiffs in I.A.No.3 of 2022 in O.S.No.115 of 2022, seeking temporary mandatory injunction to restore the alleged cart track that runs through the suit property.

2. The petitioners herein are the plaintiffs in the said suit. According to them, the first plaintiff is owner of the land to an extent of 1.18 acres in resurvey No.200/2 in Karattupalayam B Village. The second petitioner is son of the first plaintiff. The 3rd plaintiff owns 2.14 ¼ acres in resurvey No.199/2B, 4A. The 4th plaintiff is the owner of the land with an extent of 50 cents in resurvey No.199/4. The 5th plaintiff is the owner of land to an extent of 5.95 ½ acres in resurvey No.197/4. The 6th plaintiff is the owner of land with an extent of 3 acres in resurvey No.197/4.

3. It is the specific case of the petitioners that there is a cart tract running through the suit property more fully described in plaint schedule with various survey numbers and the petitioners and other adjacent owners have been using the cart track in the suit property as access to their lands. It is further stated that



the cart track has been given a separate sub division number in some places and separate sub division numbers have not been given in some other places.

Taking advantage of the same, the respondents made an attempt to obliterate the suit cart track and annex the same with their property. Therefore, the petitioners were constrained to file a suit for bare injunction restraining the defendants from committing trespass into the suit property and to interfere with the petitioners' right of carrying vehicles and cattle through the said cart track. The suit has been filed by the petitioners on their behalf and also on behalf of general public using the suit cart track.

4. The suit was filed by the petitioners on 28.02.2022 and thereafter, the instant application has been filed by them on 28.09.2022 (as seen from the affidavit filed in support of the petition) seeking temporary mandatory injunction directing the respondents to restore the suit cart track to its original position. It was the specific case of the petitioners in the said application that pending suit, the respondents obliterated the suit cart track and planted coconut saplings.

5. The said interlocutory application filed by the petitioners seeking temporary mandatory injunction was resisted by the respondents by denying the existence of the suit cart track, as claimed by the petitioners. It was also stated by the respondents that neither the petitioners nor the owners of adjacent lands



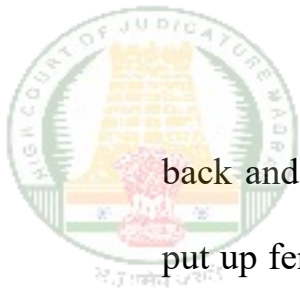
could have ever used the non existent suit cart track. It was also stated by the respondents that the 2nd respondent is owner of the property situated in resurvey No.204, 202/2, 3 and 4. The 1st respondent is owner of the property situated in resurvey No.202/1. The 3rd respondent is owner of the land situated in resurvey No.188/1, 2 and 199/4C. It was the specific case of the respondents that they had put up wire fence around their patta lands and the suit cart track was never in existence in the patta land of the respondents. It was also stated that there was a competition between the petitioners and the 3rd respondent in purchasing the land situated in resurvey No.188/1, 2 and 199/4C and the 3rd respondent succeeded in purchasing the suit lands and aggrieved by the same, the petitioners have come up with this vexatious suit.

6. The trial court conducted enquiry in the interlocutory application seeking temporary mandatory injunction and allowed the same by directing the respondents to restore the cart track. Aggrieved by the same, the respondents filed an appeal in CMA No.2 of 2023 before the regular first appellate court. The learned first appellate Judge reversed the findings of the trial court and allowed the appeal. As a consequence, the petition for temporary mandatory injunction was dismissed by the first appellate court with a direction to the Trial court to dispose of the main suit as expeditiously as possible. Challenging the said order, the petitioners/plaintiffs have come before this court by way of this revision.



7. The learned counsel for the petitioners contended that the existence of suit cart track had been established by the report and plan filed by the Advocate Commissioner and the first appellate court had committed an error in overlooking the Advocate Commissioner's Report and Plan and dismissing the petition seeking temporary mandatory injunction. The learned counsel further submitted that in the title documents of the petitioners, there is a reference about the *mamool* cart track (usual cart track) and the same only refers to the suit cart track. Therefore, according to him, there is a strong prima facie case in favour of the petitioners to grant an order of temporary mandatory injunction. He also submitted that the respondents taking advantage of the orders passed in CrI.O.P.No.5243/2022, obliterated the cart track and fenced the property belonging to them and therefore, the petitioners are entitled to restoration of the cart track, pending suit. In support of his contentions, he relied on the judgment of the Apex Court in ***Dorab cawasji warden vs. Coomi sorab warden and others reported in (1990) 2 Supreme Court cases 117.***

8. From the pleadings of the petitioners in the plaint, it is clear that the petitioners are not owners of the land, in which the suit cart track is allegedly in existence. It is pertinent to mention that the petitioners in their affidavit filed in support of the petition seeking temporary mandatory injunction, had stated that the respondents/defendants obtained an order from the High Court behind their



back and demolished (obliterated) the suit cart track existed in their lands and put up fence around their properties. Therefore, it is clear that the disputed suit cart track allegedly located in the property of the respondents and the petitioners are only claiming right to use the cart track allegedly in existence in the land belonged to the respondents. In other words, the petitioner are not owners of the land, in which the alleged suit cart track is in existence, but they are only claiming easementary right by long usage. The same can be gathered from their own pleadings in the plaint as well as in the affidavit filed by them in support of the petition seeking temporary mandatory injunction. The respondents in their counter, denied the very existence of the suit cart track. In such circumstances, the suit for bare injunction filed by the petitioners, prima facie appears to be not maintainable in the absence of prayer for declaration of petitioners' easementary right over the suit cart track. The averments found in the plaint would make it clear that the petitioners claimed only easementary right of access over the suit cart track. In such circumstances, the suit for bare injunction restraining the real owners of the property, namely the respondents from interfering with the petitioners' alleged right of access, without prayer for declaration of easementary right, appears to be not maintainable in the prima facie view of this court.



9. It is settled law that temporary mandatory injunction is an extraordinary remedy, which can be granted only in cases, where the petitioners establish a very strong prima facie case coupled with balance of convenience and irreparable injury. In the case on hand, for the reasons mentioned above, this court feels that the petitioners' chances of succeeding in the case appears to be weak, in the absence of prayer for declaration. In this regard, it is pertinent to refer to the observations of the Apex Court in the case law cited by the learned counsel for the petitioners in *Dorab cawasji warden vs. Coomi sorab warden and others* reported in *(1990) 2 Supreme Court cases 117*. The relevant observation reads as follows.

“ 16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are:

(1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.

(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.



(3) The balance of convenience is in favour of the one seeking such relief. ”

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10. Therefore, in order to succeed in an application seeking temporary mandatory injunction, the petitioners must establish a strong case for trial, which shall be of a higher standard than a prima facie case, that is normally required for a prohibitory injunction. In the case on hand, the petitioners claimed that there was a cart track in the property belonging to the respondents and the same was obliterated by them, pending suit. Whether the suit cart track was really in existence, whether the petitioners had right to use the same and whether it was obliterated by the respondent pending suit are all question of facts, which require evidence. Much reliance was placed by the petitioners on the report and plan filed by the Advocate Commissioner. As rightly pointed out by the first appellate court, the Advocate Commissioner in his report clearly found that there was no cart track available on ground between point ‘M’ and point ‘L’, in his plan. Whether there was a cart track between the point ‘M’ to ‘L’ and whether the petitioners are entitled to use the same to have access to their lands are all matters to be decided at the time of final disposal and without proper trial, a temporary mandatory injunction cannot be issued against the respondents to lay cart track in the suit property between point ‘L’ to point ‘M’.



11. As mentioned earlier, the petitioners have not prayed for declaration of easementary right and they simply filed a suit for bare injunction. The maintainability of the said suit prayer is very much doubtful. In such circumstances, the Trial Court ought not have granted temporary mandatory injunction directing the respondents to restore the alleged suit cart track to its original position. In the judgment in *Dorab cawasji warden vs. Coomi sorab warden and others* reported in (1990) 2 Supreme Court cases 117 cited by the learned counsel for the petitioners, the Hon'ble Apex Court observed that interlocutory mandatory injunction can be granted only to restore the status quo of the last non contested status which preceded the pending controversy. In the case on hand, there is a serious dispute with regard to the existence of the suit cart track in the lands belonging to the respondents. In the absence of clarity about the uncontested statusquo, the Trial Court ought not to have issued a temporary mandatory injunction directing the respondents to restore the cart track, as if the same was in existence, prior to the filing of the suit. In the facts and circumstances of the case, it is better to direct the Trial Court to dispose of the suit as expeditiously as possible, so as to give quietus to the entire controversy. The first appellate court rightly reversed the order passed by the Trial Court and directed the same to dispose of the suit in an expeditious manner. I do not find any serious irregularity or illegality in the said order passed by the first appellate court.



12. Accordingly, this civil revision petition stands dismissed. It is made clear that any observation made by this court on the suit claim is only a prima facie opinion for the disposal of interlocutory petition and the trial court shall dispose off the suit on its own merits, without being influenced by anything said in this order. There shall be no order as to costs. Connected miscellaneous petition is closed.

23-02-2026

Index: **Yes**

Speaking Order

Neutral Citation: **Yes**

MST

To

1. The Sub Court, Gobichettipalayam,
Erode District.
2. The District Munsif,
Gobichettipalayam.



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S.SOUNTHAR, J.

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