



CRP.(PD).No.621/2

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP.(PD)No.621 of 2022 &
C.M.P.No.3224 of 2022

B.Siddharthan

...Petitioner/1st defendant

Vs

1.S.Sarvanan,
S/o.Sadagopan,

...Respondent/plaintiff

2.Lakshmi

...Respondent/2nd defendant

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.3277 of 2020 on the file of the XVII Assistant City Civil Court, Chennai.

For Petitioner : Mr.R.Chandrasudan



ORDER

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The present petition is filed to strike off the plaint in O.S.No.3277 of 2020 on the file of the XVII Assistant City Civil Court, Chennai.

2.The suit is laid by the respondent/plaintiff for bare injunction that the 2nd defendant and the petitioner herein shall not disturb the peaceful possession and use of the toilet or bathroom that lies adjacent to the house of the defendant.

3.The contention of the counsel for the revision petitioner is that, in terms of the allegation made by the plaintiff in paragraph No.8 of the plaint, he traces his right to put up the toilet and bath room in the vacant space adjacent to the house of the defendant, and alleges that he derived this right from certain concession given by the inhabitants of the lane where he resides. This implies that he is not in physical possession of the property. Secondly, he cannot derive any authority from the inhabitants of the lane for putting up a construction either. On the other hand, he must have a pre-existing title to occupy the land where he intends to put up or has put his bathroom and toilet. Further, he added that the place where the plaintiff



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claims that he has been authorised by the inhabitants of the lane to put up a toilet and bathroom actually belong to the defendant and it is in the latter's acting possession.

5. In the context of the allegation made by the plaintiff in his plaint where he traces his right to put up toilet or bathroom, this Court finds that the points raised by the learned counsel for the revision petitioner requires evidentiary material to evaluate their merit. Therefore, this Court does not consider it appropriate to strike down the pleadings at this stage.

6. The learned counsel for the revision petitioner would now interject to state that, to let the plaintiff occupy the land of the defendant on the basis of the certain concession given, not by the defendant but by certain inhabitants of the lane, will literally interfere with the defendant's right over his property. This aspect is not incapable of resolution by the trial Court since the Revision Petitioner/1st defendant work out other remedies available within the procedure. That however, may not be a valid ground to revisit the decision of this Court not to strike down the plaint.



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7. With the above observation, this Civil Revision Petition is disposed of accordingly. Consequently, connected miscellaneous petition

C.M.P.No.3224 of 2022 is closed. No costs.

08.03.2022

Index : Yes/No

Speaking Order/Non Speaking Order

msv/dk

Note:Office to issue order copy on 09.03.2022.

To

XVII Assistant City Civil Court, Chennai.



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N.SESHASAYEE, J.,

msv/dk

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