



C.R.P. No. 720 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 720 of 2023

P.Chinnappa
S/o. Periyannan

... Petitioner

Vs

1. The Tahsildar,
Mylapore Taluk,
Extension, Bishop Garden,
46, Greenways Road,
Raja Annamalaipuram,
Chennai-600 028.

2. Ganesan,
S/o. Late Sankara Narayanan

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the docket order passed in O.S.SR.No. 27583 of 2022 dated 03.01.2023 and consequently direct numbering of the suit.



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For Petitioner : Mr.T.S.Rajamohan

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ORDER

The Revision Petitioner is the plaintiff in an unnumbered plaint filed before the I Asst. Judge, City Civil Court, Chennai.

2. As the revision petitioner purchased the property from the father 2nd defendant, he has obtained patta for the property bearing New Door Nos. 95 and 97, Old Door Nos. 43, 44, Mylapore Part-II town. But, after due verification, he found that with regard to a common pathway, patta was not issued by the revenue officials. When he requested the same, it was not considered. So, he filed a Writ Petition in W.P. No.25523 of 2022 before this court, in which, this court vide order dated 22.09.2022 directed him to approach the competent court to avail appropriate remedy. Thereafter, he approached the City Civil Court, Chennai and filed a plaint seeking for the relief of declaration and other consequential relief of claiming right over the common pathway. But, the trial judge, before numbering the plaint, rejected the same stating that the present suit is not maintainable as per Sec.9 of C.P.C. r/w Sec.14 of Tamil Nadu Patta Pass Book Act, 1983. Now, challenging the same, the present Civil Revision Petition has been filed.



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3. It is pertinent to note that if there is any entries with regard to patta, it can be challenged under Tamil Nadu Patta Passbook Act, but on seeing the plaint averment, the plaintiff claiming right over a common passage, which was assigned to him by his father. But, the revenue officials not inclined to issue patta for the said common passage. Hence, he approached the City Civil Court, Chennai to declare his right over a common passage and filed a plaint seeking the relief of declaration and to direct the 1st defendant to issue proper patta and before numbering the suit, the same was rejected by the trial court, as such, is not maintainable and it is unjustifiable one. Hence, the findings of the trial judge is set aside and the trial court is directed to take the plaint on file within a period of two weeks from the date of receipt of copy of this order and number the same if it is otherwise found to be in order. Accordingly, this Civil Revision Petition is disposed of. No costs.

29.03.2023

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To
I Asst. Judge, City Civil Court, Chennai.

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