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C.R.P.(NPD) No.5396 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2025

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.5396 of 2024

Mr.Hemamalini

... Petitioner/Plaintiff

-VS-

1. Mr.C.B.Anumanthan

2. Mr.C.K.Sampath

3. The Sub Registrar,
Sub Registrar Office,
Thiruporur.

4. The Tahsildar,
Thiruporur Taluk Office,
Thiruporur.

... Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned District Munsif-cum-Judicial Magistrate to number the plaint in unnumbered O.S.SR.No.1043 of 2024, which was rejected on 19.11.2024 by allowing this Civil Revision Petition.

For Petitioner : M/s.S.Vasavi Sridevi

For R3 to R4 : Mr.D.Gopal
Government Advocate



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ORDER

A challenge has been made to the order of the Trial Court, rejecting the plaint without even numbering the suit.

2. The suit had been filed for declaration of Sale Deeds dated 30.07.1997 and 07.05.2019 registered as Doc.Nos.1544 of 1997 and 5819 of 2019 respectively as null and void with the consequential relief of mandatory injunction to restore the Patta No.678 issued in the name of the plaintiff's mother and also for permanent injunction restraining the 2nd defendant from interfering the plaintiff's peaceful possession.

3. The plaint proceeded on the basis that the suit property is a Grama Natham and the plaintiff inherited the same from her ancestors and was in continuous possession and enjoyment of the suit property. While so, the 1st defendant, with the sole intention to grab the property of the plaintiff, fabricated the sale deed on 30.07.1997 as Doc.No.1544 of 1997 in respect of the suit property and thereafter, executed another sale deed in favour of the 2nd defendant on 20.02.2004 vide Doc.No.437 of 2004. On 07.05.2019,



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the first defendant executed a sale deed in favour of the 2nd defendant vide

Doc.No.5819 of 2019.

4. When the suit was filed, the Trial Court, without even numbering the suit, has gone into the merits of the matter and held that the suit is barred by Section 14 of the Tamil Nadu Patta Passbook Act and thereby, rejected the plaint under Order VII Rule 11(a) of CPC.

5. I have perused the material documents available on record.

6. It is pertinent to mention here that the Tamil Nadu Patta Passbook Act does not oust the jurisdiction of the Trial Court, especially when the issue is with regard to a title dispute. Since a declaration in respect of sale deeds is sought with the consequential relief of mandatory injunction, it cannot be said that the Tamil Nadu Patta Passbook Act bars such suit to be tried by the Civil Court, as the ouster of jurisdiction of the Civil Court cannot be inferred lightly. In such view of the matter, this Court



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N.SATHISH KUMAR,J.,

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is of the view that the impugned order of rejection of plaint by the Trial Court is liable to be set aside.

7. Accordingly, this Civil Revision Petition is allowed and the impugned order dated 19.11.2024 passed by the District Munsif-cum-Judicial Magistrate, Thiruporur, is set aside. The Trial Court is directed to number the suit after giving opportunity to both parties and decide the issue on its own merits and in accordance with law. No costs.

07.01.2025

Index: Yes / No

Internet: Yes / No

dhk

To:

The District Munsif-cum-Judicial Magistrate,
Thiruporur.

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