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CRP No.6092 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 6092 of 2025 and
CMP No.29994 of 2025**

1. Thowlath Bee
W/o Mohammed Rabi, No 35/21,
Irusappamaistery Street, New
Washermanpet, Chennai 600 081.

Petitioner(s)

Vs

1. MAHESWARAN
S/o Kuppusamy, No 38/5, Venkatesan
Ali Street, New Washermanpet,
Chennai 600 081.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article to set aside the order and decretal order dated 6.10.2025 passed in IA.No.4/2025 in OS.No. 1335/2025 on the file of XIII Assistant City Civil Court, Chennai.

For Petitioner(s): Mr. K.R.Gunashekar



ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioner seeking to reject the plaint.

2. The respondent/plaintiff filed a suit in O.S.No.1335 of 2025 seeking permanent injunction restraining the petitioner/defendant from interfering with his right to use common staircase situated in the suit B schedule Property.

3. It is the case of the respondent/plaintiff that both A and B schedule properties were originally owned by him and B schedule property is a portion of A schedule property, with an extent of 380 sq.ft. The respondent/plaintiff sold the B schedule property to the petitioner/defendant on 11.12.2024. It was the case of the plaintiff that though there is no recital in the sale deed regarding user of staircase situated in the B schedule property, there was an understanding between the parties that the staircase should be used by the plaintiff for reaching the first floor of the building situated in A schedule property. It was also pleaded by the respondent/plaintiff that the parties were agreed to put up separate staircase to reach their respective portion. However, violating the said understanding, the defendant attempted to demolish the staircase situated in the B schedule Property and hence, the respondent was constrained to file the suit



for permanent injunction. After receipt of the suit summons, the petitioner/defendant filed an application seeking rejection of plaint on the ground that even as per the admitted case of the respondent/plaintiff, there was no recital in the sale deed executed by him, permitting him to use the staircase. In such circumstances, the respondent/ plaintiff has no legal right to use the staircase sold to the petitioner/defendant and hence, the plaint is liable to be rejected. The Trial court dismissed the said petition. Aggrieved by the same, the petitioner/defendant has come before this court.

4. The learned counsel for the petitioner by taking this court to the averments found in the plaint submitted that there was no recital in the sale deed executed by the respondent/plaintiff in favour of the petitioner/defendant enabling him to use the staircase found the B schedule property. He would further submit that the plaintiff has no legal right to use the staircase situated in the property sold to the defendant and hence, the prayer for injunction is not maintainable based on the averments found in the plaint.

5. A close reading of the plaint would reveal that the respondent/plaintiff has clearly stated that he has no alternative way to reach the first floor of the building. Admittedly both the A and B schedule properties were originally owned by the respondent/plaintiff. Subsequently, the B schedule property was sold to the petitioner/defendant. Therefore, by virtue of sale, there was a



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splitting of tenements. The staircase is situated in B schedule property and in the absence of any other staircase to enable the plaintiff to reach the first floor of the building situated in A schedule property, the plaintiff has easement of necessity, as per the averments made in paragraph No.6 of the plaint. In such circumstances, I am unable to accept the contentions raised by the petitioner/ defendant that the respondent/ plaintiff has no legal right to utilize the staircase situated in B schedule property. Whether the staircase situated in B schedule property is the only access available to the plaintiff or not, whether he is entitled to easement of necessity, whether the suit for bare injunction is maintainable or not, these are all the questions to be decided at the time of final disposal of the suit and at this stage, based on the averments found in the plaint, it cannot be rejected. The Trial Court, rightly appreciated the legal positions and dismissed the application seeking rejection of plaint and I do not find any error in the impugned order to interfere with the same.

6. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

02.12.2025

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Index: Yes
Neutral citation: Yes
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To

The XIII Assistant Judge,
City Civil Court, Chennai.



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S.SOUNTHAR, J.

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