

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD) No.3599 of 2016  
and C.M.P.No.18303 of 2016

Indira

... Petitioner

Vs.

1.G.Jayaraman  
2.Udhayakumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 21.11.2015 in memo filed in R.E.A.No.7 of 2014 in R.E.P.No.139 of 2013 on the file of the XIV Small Causes Court, Chennai.

For Petitioner : Mr.S.Sudharsan  
for M/s.S.Subramanian

**ORDER**

Challenging the order passed by the XIV Judge, Court of Small Causes, Chennai in the memo filed by the revision petitioner in R.E.A.No.7 of 2014 in R.E.P.No.139 of 2013, the revision petitioner, who is a 3<sup>rd</sup> party to the proceedings, has filed the above Civil Revision Petition.

2. Pursuant to the order of eviction passed in R.C.O.P.No.990 of 2012, the 1<sup>st</sup> respondent/Decree Holder filed an Execution Petition in R.E.P.No.139 of 2013. Similarly, pursuant to the order of eviction passed in R.C.O.P.No.988 of 2012, the 1<sup>st</sup> respondent filed an Execution Petition in R.E.P.No.41 of 2014.

3. In both the Execution Petitions, the revision petitioner filed applications in R.E.A.Nos.6 & 7 of 2014 under Order 21 Rule 97 of the Civil Procedure Code. In R.E.A.No.6 of 2014 in R.E.P.No.41 of 2014, the revision petitioner let in oral evidence. When the application in R.E.P.No.7 of 2014 was taken up for trial, the revision petitioner filed a memo to consider the evidence recorded in R.E.A.No.6 of 2014 in R.E.P.No.41 of 2014 and decide the application in R.E.A.No.7 of 2014 in R.E.P.No.139 of 2013.

4. Since both the Execution Petitions are not tried jointly and are being tried separately, the evidence let in R.E.A.No.6 of 2014 cannot be considered in R.E.A.No.7 of 2014. The revision petitioner should enter into the box and let in evidence with regard to the averments stated in the affidavit filed in support of the application in R.E.A.No.7 of 2014 separately. Even in the case of marking certified copy of the evidence let in

R.E.A.No.6 of 2014, the petitioner has to let in evidence and should prove the contents of the evidence let in R.E.A.No.6 of 2014. The Executing Court, taking into consideration all these aspects, rightly rejected the memo.

5.In these circumstances, I do not find any error or irregularity in the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No  
Internet : Yes  
va

**25.11.2016**

To

1.The XIV Small Causes Court,  
Chennai.

**M.DURAIWAMY,J.**

va

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**25.11.2016**