



CRP No.300 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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R.Mohan

... Petitioner

Vs.

The South Arcot Diocesan Corporation,
Represented by its Secretary, Fr.L.Arul Pushpam,
St.Agnes Seminary,
No.4 Beach Road, Cuddalore-1.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the X Assistant City Civil Court at Chennai in EA SR No.81372 of 2023 in EP No.5263 of 2014 dated 06.12.2023 and consequently, direct the executing court to order joint enquiry in respect of the prayer sought for in the application.

For Petitioner

: Mr.T.Ravichandran



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ORDER

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The civil revision petition is filed to set aside the order passed by the X Assistant City Civil Court at Chennai in EA SR No.81372 of 2023 in EP No.5263 of 2014 dated 06.12.2023 and consequently, direct the executing court to order joint enquiry in respect of the prayer sought for in the application.

2. The petitioner is the defendant and respondent is the plaintiff in OS No.1287 of 2009 on the file of learned City Civil Court, Chennai. The respondent has filed the said suit for delivery of vacant possession of land in the property in question. Subsequently, the respondent has filed another suit in OS No.1288 of 2009 against one dead person namely M.K.Raman before the City Civil Court, Chennai, for the very same property. Both the suits were decreed. According to the petitioner, the respondent has filed two execution petitions in EP No.5263 of 2014 and E.P.No.4086 of 2014 with regard to the same property. The petitioner herein is the judgment debtor in EP No.5263 of 2014. The judgment debtor in EP No.4086 of 2014 had



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filed a transfer petition in Tr OP No.81 of 2018 before the Principal Judge, City Civil Court, Chennai seeking to transfer EP No.5263 of 2014 from the file of IX Assistant Judge, City Civil Court, Chennai to the file of the learned X Assistant Judge, City Civil Court, Chennai to try jointly with EP No.4086 of 2014. The learned judge refused to order joint enquiry and ordered for transfer alone. Now, both the EPs are pending on the file of the X Assistant, City Civil Court, Chennai. In the absence of any order for joint trial, the petitioner has filed EA Sr No.81372 of 2023 on the file of the X Assistant City Civil Court, Chennai, seeking a direction to try EP No.5236 of 2014 along with EP No.4086 of 2014. The said application was rejected by the learned judge. Hence, the petitioner has filed the present civil revision petition before this Court seeking a direction to the Executing Court to order joint trial since the property involved in both the EPs are same and to avoid conflicted decisions.



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3. Learned counsel for the petitioner submits that since the property involved in both the EPs are same and to avoid conflicted decisions, joint trial is necessary. Therefore, the order of the executing court is liable to be rejected and seeks for a direction to the Executing Court to order joint trial in EP No.5236 of 2014 along with EP No.4086 of 2014.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. On a perusal of the case, it is noticed that it is not disputed that EP No.5263 of 2014 is pending before the learned X Assistant Judge, City Civil Court, Chennai, and another EP No.4086 of 2014, by order dated 14.03.2023 was transferred from the file of the XXVIII Assistant City Civil Court, Chennai to the file of the X Assistant Judge, City Civil Court, Chennai in Tr OP No.66 of 2021. Now both the EP are presently pending for enquiry in the same court. Since the judgment debtors are different parties, joint trial is not possible, therefore, this court is of the view that, in



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order to avoid conflicted decision with regard to properties involved in both the execution petitions, the learned judge may try both the above EPs simultaneously and adjudicate both the EPs on the same date.

6. In view of the above, the X Assistant City Civil Court, Chennai is hereby directed to simultaneously conduct enquiry in EP No.4086 of 2014 and EP No.5263 of 2014 and adjudicate both the EPs on the same date.

7. With the above directions, the civil revision petition is disposed of. There shall be no order as to costs. Consequently, CMP No.1402 of 2024 is closed.

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Index: Yes/No
Internet: Yes/No
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The X Assistant City Civil Court at Chennai



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V.SIVAGNANAM, J.

(mrn)

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