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C.R.P.(PD).No.5075 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5075 of 2024
and
C.M.P.No.28421 of 2024

Kamal B Vardhar

... Petitioner

Versus

M/s.Jain Mahila Sangh
Represented by its Committee Member,
Mrs. Bharti R.Mehta,
W/o.Mr.Rohit Mehta,
Flat No.1, Hari Ohm Apartments,
JNo.92/93, KalathiappaMudhali Street,
Choolai Chennai.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order in Memo dated 15th October 2024 passed by the learned II Additional Judge, City Civil Court, Chennai in O.S.No.4069 of 2019 pending disposal of the main civil revision petition.



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For Petitioner : Mr.Subramanian R.

ORDER

This civil revision petition challenges the order passed in Memo in O.S.No.4069 of 2019 dated 15.10.2024 by the learned II Additional Judge, City Civil Court, Chennai.

2. By an order dated 15.10.2024, the learned II Additional City Civil Judge, Chennai, has directed joint trial and common evidence in the following suits pending on his file:-

- (1) O.S.No.2733 of 2018 and
- (2) O.S.No.4069 of 2019.

3. O.S.No.2733 of 2018 is a suit presented by the civil revision petitioner seeking for the following reliefs:

- (a) For a permanent injunction restraining the Defendant, their men, agents, servants and or any one from any manner interfering with the peaceful possession and enjoyment of the Suit Schedule



Property.

(a1) To declare the 'Sale Deed dated 20.07.2017 as null and void.'"

4. Consequent to this suit, O.S.No.4069 of 2019 was presented for the following reliefs:

“(a) Directing the Plaintiff to vacate and handover vacant possession of the suit premises;

(b) To pay damages for use and occupation of the suit premises @ 600/day from this date till the date the Defendant vacates and hands over possession of the suit premises;”

The plaintiff in O.S No.2733 of 2018 is the defendant in O.S.No. 4069 of 2019. The suit properties are one and the same.

5. The claim of the plaintiff in O.S. No.2733 of 2018 is that one Gujarathi Bhojanalaya BASA Trust had agreed to alienate the property, in favour of his father, Shri. Bhupendra T Vadhar. He pleads that he is entitled to the property not only by virtue of the assurance of Gujarathi Bhojanalaya



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BASA Trust, but also by virtue of adverse possession. In this suit, he has attacked the alienation made by Gujarathi Bhojanalaya BASA Trust in favour of Jain Mahila Sangh of the suit schedule mentioned property. In turn, the Jain Mahila Sangh, to recover possession from plaintiff, has filed O.S.No.4069 of 2019.

6. One suit is the relief of injunction and the other is for recovery of possession. To avoid conflicting judgments, the learned Judge has decided to conduct simultaneous trial and common evidence. If the plea of the plaintiff in O.S.No.2733 of 2018 is accepted, the suit in O.S.No.4069 of 2019 would have to be dismissed and vice versa. Therefore, no exception can be taken to the order of joint trial and common evidence in both the suits. In any event, this is a procedural matter, which unless and until would lead to an absurd result or is perverse, it is incapable of being revised.



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Consequently, connected Miscellaneous Petition is closed.

17.12.2024

arr

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

The II Additional Judge, City Civil Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

arr

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