

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.NO.2076 OF 2019

Ariya Vysya Samajam Chidambaram
Rep. by its President,
Balaramasubramanian
No.39, West Car Street,
Chidambaram.

... Petitioner/Plaintiff Decree
Holder/1st Respondent

Vs.

1.Mohamed Haja
2.Sukkurnnisa
3.Mohamed Moosa
4.Jabaruthunnisa
5.Mayikunnisa
6.Nabeesa Begam
7.Naseema Begam

... Respondents/
Petitioners/Defendants 2 to 7

PRAYER:

Civil Revision Petitions filed under Article 227 of Constitution of India praying to allow the Civil Revision Petition and strike off the proceedings in E.A.No.275 of 2018 in E.P.No.94 of 2017 in O.S.No.221 of 2010 on the Court of the Principal District Munsif, Chidambaram.

For Petitioner : Mr.S.Balasubramanian

For Respondent : No Appearance

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O R D E R

This petition is filed by the petitioner seeking to allow the Civil Revision Petition and strike off the proceedings in E.A.No.275 of 2018 in E.P.No.94 of 2017 in O.S.No.221 of 2010 on the Court of the Principal District Munsif, Chidambaram.

2. The petitioner/landlord filed a suit O.S.No.221 of 2010 for recovery of possession of the suit property and obtained

decree of eviction against the tenants/respondents. Hence, the petitioner filed an E.P.No.94 of 2017 for delivery of possession. During the pendency of that Execution Petition, the first respondent/third party as an obstructor, filed a petition in E.A.No.275 of 2018 under Order 21 Rule 97 CPC seeking to declare the decree passed in O.S.No.221 of 2010 as a collusive decree. Against the above said Execution Petition filed by the first respondent / third party, the decree holder / petitioner is before this Court.

3. According to the decree holder all the defendants are parties before the Execution Court. The stranger came before the Court and filed a obstruction application in E.A.No.275 of 2018 filed under Order 21 Rule 97 CPC claiming that the decree is unenforceable and non binding.

4. The decree holder has approached this Court to strike off the pleadings in E.A.No.275 of 2018 filed under Order 21 Rule 97 CPC. During execution, the obstructor even he is a third party, has right to obstruct the vendor and to establish his right of title and interest of the suit property. Therefore, the prayer to strike off the proceedings filed by the third party is not sustainable in law.

5. Further, considering the long pendency of the suit for the past one decade, this Court is inclined to consider it a fit case to direct the execution Court to dispose of the E.A.No.275 of 2018 within a period of one month and the execution petition itself within a period of three months thereafter.

6. Accordingly, a direction is given to Principal District Munsif court, Chidambaram to dispose of the E.A.No.275 of 2018 pending on its file within a period of one month from the date of receipt of a copy of this order and further a direction to dispose of this E.P.No.94 of 2017 itself within a period of three months thereafter. The Civil Revision Petition is disposed of with the above observation. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

bkn

To

The Principal District Munsif,
Chidambaram.

+1cc to Mr.S.Balasubramanian, Advocate, S.R.No.54209

C.R.P.No.2076 of 2019

CA (CO)
CS/02/12/2019



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