



C.R.P.(NPD).No.2734 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2734 of 2021

and

C.M.P.No.19993 of 2021

Kandasamy

.. Petitioner

Vs.

Dhanammal

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 11.11.2021 by the learned Principal District Munsif Court, Salem in R.E.A.No.2 of 2021 in R.E.P.No.131/2018 in O.S.No.1485/1983 and consequently allow the said application as prayed for.

For Petitioner : Mr. T. Mohan
for M/S. Guru Dhananjay

ORDER

Challenge in this Revision is to the order of the Executing Court dismissing the application under Order XXI Rule 29 of the Code of Civil



C.R.P.(NPD).No.2734 of 2021

Procedure seeking the executing Court to stay execution, pending disposal of the application filed by the petitioner seeking condonation of delay in filing the application to set aside the exparte decree on the original side.

2. The decree that is sought to be put in execution in R.E.P.No.131 of 2018 is a final decree in a partition suit passed on 07.03.2014. The original suit was instituted in 1983, the proceedings are almost 38 years old now. Be that as it may, Order XXI Rule 29 of the Code of Civil Procedure does not empower the Court executing a decree to grant stay of its own proceedings.

3. The object of introduction of Order XXI Rule 29 of the Code of Civil Procedure is to enable the Court, before which, the suit in which the validity or otherwise of the decree is in question, to grant stay of execution, until the pending suit has been decided. The power under Order XXI Rule 29 is exercisable by the Court before which the suit is pending and not the Court executing the decree. Therefore, the Court executing the decree is not empowered to grant stay of execution of the decree, except where it falls



C.R.P.(NPD).No.2734 of 2021

within Order XXI Rule 26 of the Code of Civil Procedure viz., the transferee Court or to the Court which the decree is sent for execution.

4. I therefore do not see any error in the order of the trial Court dismissing the application filed by the petitioner. The Revision therefore fails and it is accordingly **dismissed**. This order will not ever preclude the petitioner from seeking stay on the original side. No costs. Consequently, the connected miscellaneous petition is closed.

03.12.2021

dsa

Internet :Yes

Index : No

Speaking order

To

The Principal District Munsif Court, Salem.



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C.R.P.(NPD).No.2734 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(NPD).No.2734 of 2021

03.12.2021