



C.R.P(PD).No.3007 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No.3007 of 2021

Eva Laberibe

..Petitioner

Vs.

1.S.Radhakrishnan

Ms.Dunand Evelyne Christiane (Died)
Rep. By her 4th and 5th Respondent,
D/o.Dunand Sabapathy

2.P.Sagayaraj

3.L.Periyanayagasamy @ Arulraj

4.Mme.Josseline Cecile Dunand

5.Albert Rene Paul Dunand

..Respondents

Praye: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned II-Additional District Judge, Puducherry to dispose of the E.A.No.88 of 2021 in E.P.No.383 of 2019 in OS.No.23 of 2007 on merits in accordance with law.

For Petitioner : Mr.Prakash Adiapadam



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WEB COPY

ORDER

The petitioner, who is the 3rd party obstructor seeks disposal of the execution application filed by him under Order XXI Rule 97 of CPC., at an early date.

2.Heard Mr.Prakash Adiapadam, learned counsel appearing for the petitioner. Considering the limited prayer sought for in this revision, notice to the respondents is deemed unnecessary.

3.The grievance of the petitioner is that after he had filed the application under Order XXI Rule 97 on 17.08.2021, the decree holder had approached this Court and had obtained an order for early disposal of the execution petition. The said order in CRP(NPD).No.1782 of 2021 made during the pendency of his application in EA.No.88 of 2021 is being used to delay the hearing of his application in EA.No.88 of 2021. I see some justification in the grievance of the petitioner.



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4.The Hon'ble Supreme Court has recognised the right of a 3rd party obstructor to file an application under Order XXI Rule 97, obstructing delivery and the provisions of Order XXI Rule 97 required such application to be decided as a suit wherein, all questions arising between the 3rd party claimant and the decree holder are to be decided. The order passed there of is treated as a decree and is made appealable.

5.In view of the above, the learned II-Additional District Judge, Puducherry is directed to dispose of E.A.No.88 of 2021 after giving sufficient opportunity to the petitioner herein within a period of six months from the date of receipt of either web copy or certified copy of this order. E.P.No.383 of 2019 shall be proceeded with thereafter. This civil revision petition is disposed of with the above direction. No costs.

23.12.2021

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Index:No
Internet:Yes
Speaking

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R.SUBRAMANIAN, J.

KKN

To:-

The II-Additional District Judge,
Puducherry.

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