



WEB COPY



C.R.P.No.3448 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.3448 of 2019

and

CMP.No.22653 of 2019

1.B.Sanjesh

2. S.Rajarajeswari

... Petitioners

Vs.

1. Royal Shelter

Rep. by its Managing Partner,

Mr.P.Ravichandran,

No.D-27, JP Towers,

Seventh Cross, Thillai Nagar,

Trichy – 620 018.

2. R.Padmanaban

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Docket order dated 26.09.2019 passed by the Court of the V Additional District Court, Coimbatore in E.A.No.1 of 2019 in E.P.No.108 of 2016 and allow the above Civil Revision Petition.

For Petitioners : Mr.T.R.Sathiyamohan

For Respondents : No appearance (for R1)

R-2 Given up



C.R.P.No.3448 of 2019

ORDER

WEB COPY

This Civil Revision Petition has been filed challenging the docket order dated 26.09.2019 in E.A.No.1 of 2019 in E.P.No.108 of 2016 passed by the V Additional District Court, Coimbatore.

2. Heard the learned counsel for the petitioners and perused the materials available on record. Despite service of notice, the respondents have not chosen to appear in this Civil Revision Petition.

3. The petitioners are third parties to the execution proceedings pending in E.P.No.108 of 2016 on the file of the V Additional District Court, Coimbatore. The petitioners purchased the subject property in proceedings initiated under the SARFAESI Act and, being the highest bidders, their bid was confirmed on 03.07.2013. The sale certificate was registered on 23.08.2013 as Document No.2920 of 2013 on the file of the Sub Registrar Office, Peelamedu, Coimbatore. The petitioners were also issued a possession certificate on 24.08.2016 and have been in possession and enjoyment of the subject property ever since.



C.R.P.No.3448 of 2019

4. However, pursuant to an arbitral award dated 01.10.2015, the first respondent/decreed holder initiated execution proceedings in respect of the said immovable property, which is under the settled possession and ownership of the revision petitioners. An application under Order XXI Rule 97 of the Code of Civil Procedure was filed by the decreed holder seeking removal of obstruction. The petitioners, despite producing all records relating to their purchase under the SARFAESI Act, were not afforded an opportunity of hearing and the Executing Court proceeded to dispose of the application under Order XXI Rule 97 of the Code of Civil Procedure summarily, in the following manner:-

“E.A.No.1 of 2019 – Petitioner Advocate present. Respondent/JD remained ex parte. Heard and perused the petition and affidavit. Amin report perused. Delivery as per order of this Court not effected due to obstruction by third party. Amin report dated 07.06.2019. Till date, no application has been filed on the side of the third party obstructor. Hence, considering the facts and circumstances, there is an illegal obstruction in executing the decree, which has to be removed. Hence, in the interest of justice, this petition is allowed. E.P.No.108 of 2016 – E.A.No.1 of 2019 allowed for removal of obstruction. Delivery by 08.11.2019. Batta in three days.”



C.R.P.No.3448 of 2019

5. A reading of the above order makes it clear that the Executing

Court committed an error in allowing the application for removal of obstruction on the ground that the petitioners had not filed any independent application as obstructors. It is well-settled law that a third-party obstructor is entitled to agitate his claim not only through an independent application filed by him, but also in an application filed by the decree holder himself under Order XXI Rule 97 of the Code of Civil Procedure.

6. In the present case, admittedly, the decree holder himself has filed an application under Order XXI Rule 97 of the Code of Civil Procedure. Such an application is required to be adjudicated after affording opportunity to the parties to lead oral and documentary evidence and after determination of the issues, in terms of Order XXI Rule 101 of the Code of Civil Procedure. In effect, the parties are required to undergo a trial within the execution proceedings itself. However, no such procedure has been followed by the Executing Court and, as seen from the extract above, the application for removal of obstruction has been summarily allowed merely on the ground that the



C.R.P.No.3448 of 2019

obstructor had not filed any application.

WEB COPY

7. In the light of the above, this Court is inclined to set aside the docket order dated 26.09.2019 in E.A.No.1 of 2019 in E.P.No.108 of 2016 and accordingly, the same is set aside. The Executing Court is directed to permit the parties to adduce oral and documentary evidence in E.A.No.1 of 2019 and thereafter decide the application for removal of obstruction on merits and in accordance with law.

8. In the result, this Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

05.01.2026

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
kv



WEB COPY



C.R.P.No.3448 of 2019

P.B.BALAJI, J.

kv

To

The V Additional District Court, Coimbatore.

C.R.P.No.3448 of 2019

05.01.2026

6/6