

Constitutional Court Ruling No. 25/2567 (2024)

Roi Et Provincial Court

Applicant

Respondent

Constitution, section 26 and section 27 paragraph one and paragraph three

Civil Procedure Code, section 323 paragraph one, paragraph four and paragraph five

Section 323 of the Civil Procedure Code concerned a request to the court for the release of property. It had been amended to protect the rights of third parties involved in execution.

Section 323 paragraph one prescribed the time period for submitting a request for the release of property depending on the necessity of each case. Determination on whether a request involved special circumstances or *force majeure* would be depended on the fact of each case. The court shall consider such existing circumstances based on the facts presented in the request or those revealed during a hearing.

Section 323 paragraph four granted the plaintiff or judgement creditor the right to file a motion requesting the court to order the applicant to deposit money or furnish a guarantee, in cases where the request was groundless and appeared intended to delay execution. The plaintiff or judgement creditor may also file a motion seeking compensation for any damages resulting from such a request. This served as a screening mechanism for release-of-property request submitted during the execution, ensuring that proceedings were conducted promptly, duly, and fairly, while discouraging attempts to delay execution.

Section 323 paragraph five set out the criteria under which the plaintiff or judgement creditor who was injured as a result of the submission of a release-of-property request may seek compensation without initiating a new lawsuit. This provision was intended to protect parties harmed by such request and to deter those made with the intention of delaying execution, thereby establishing a fair and balanced framework for all parties.

This provision equally protected the rights of parties and others involved in the judicial process. It was in line with the principle of proportionality, did not violate the rule of law, and did not impose undue burdens or excessive restrictions on individual rights or liberties. It did not infringe upon human dignity and shall be of general application, without being intended to apply to any particular case or person. It did not violate the principle of equality and did not constitute unjust discrimination on the ground of personal status or economic standing. Therefore, it was not contrary to or inconsistent with section 26 or section 27 paragraph one and paragraph three of the Constitution.

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