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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.08.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P.(NPD)(MD).No.1759 of 2018

1.N.Chandrasekaran
2.C.Prema ... Petitioners

Vs.

Nil ...Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the order dated 04.12.2017, passed in A.O.P.No.1 of 2017 by Principal District Judge, Karur with costs.

For petitioners : Mr.A.Chandrakumar

O R D E R

The revision petitioners had taken a minor child in adoption. The said minor child, Yazhini was born to one Shankar and his wife Dhanalakshmi on 11.10.2016. The age of the first petitioner is 48 years and the age of the second petitioner is 42 years. The biological parents had executed an adoption deed dated 24.10.2016, in favour of the revision petitioners, while giving the child in adoption. The said deed has been registered as Document No.11 of 2016, Book No.4 on the file of the Sub Registrar Office, Karur. The adoption in question satisfies all the requirements set out in Sections 6 and 11 of the Hindu Adoptions and Maintenance Act, 1956. Thereafter, the revision petitioners filed A.O.P.No.1 of 2017 before the learned Principal District Judge, Karur, seeking the permission of the Court, to take the said female child Yazhini in adoption. The said petition was dismissed as redundant by order dated 31.08.2017. The correctness of the said order is questioned in this Civil Revision Petition.

2.The learned counsel appearing for the revision petitioners reiterated the grounds set out in the Memorandum of Grounds.

3.I am unable to agree with the said submissions. As rightly pointed out by the Court below, in as much as the adoption had been taken only from the biological parents of the child, there is no need to get permission of the Court. Permission of the Court would be necessary only when guardian of the child proposes to give the child in adoption. In fact, such previous permission of the Court would be required even where the guardian of the child proposes to take the child himself in adoption. But in this case, the biological parents of the child Yazhini have consented to give the child in adoption to the revision petitioners. The same is also duly reflected in the adoption deed dated 24.10.2016, registered as

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document no.11 of 2016, Book No.4, on the file of the Sub Registrar Office, Karur.

4.As per Section 9 of CPC, *''The Court shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred''*, That is why except in the case of statutory suits, all the suits are filed under Section 9 of CPC. But then, for a petition to be taken on file and disposed of on merits, there must be a specific enabling provision. In the present case, as per the statutory scheme set out in the Hindu Adoptions and Maintenance Act, 1956, permission of the Court is contemplated only in terms of Section 9(4) of the Act. The said provision reads as under:

> *'' 9(4). Where both the father and mother are dead or have completely and finally renounced the world or have abandoned the child or have been declared by a Court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the Court to any person including the guardian himself.''*

Other than this provisions, in no other circumstances, the permission of the Court is contemplated. Here is the case where the biological parents themselves have given the child in adoption to the revision petitioners. Therefore, the Court below was right in dismissing the petition as redundant. It is relevant to note here that the petition was not dismissed on merits, but only on account of the circumstances, set out earlier.

5.In these circumstances, the order passed by the learned Principal District Judge, Karur, does not warrant any interference. It stands confirmed. Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/
Assistant Registrar(AS)

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Sub Assistant Registrar (CS-II)

TO
The Principal District Judge, Karur.

+1cc to Mr.A.Chandrakumar, Advocate, SR.No.79016

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