

C.M.P.Nos.19270 of 2019

in

S.A.No.1378 of 2011

P.T.ASHA, J.,

The above petition is filed for bringing on record the petitioners 2 and 3 as the proposed appellants 2 and 3 in the above Second Appeal. The case of the petitioners are that the sole appellant Nagendran had died on 04.06.2019 and had no issues. The 3rd petitioner is his wife. The 2nd petitioner was treated as a foster son by both Nagendran and his wife. The 2nd petitioner was taking care of the deceased Nagendran till his lifetime.

2. A Will dated 28.05.2007 has been executed by the said Nagendran in which he has bequeathed the properties in favour of the 2nd petitioner. A copy of the Will has been filed along with the above petition. The petitioners have also filed a Will of the same date executed by the 3rd petitioner bequeathing the properties in favour of the 2nd petitioner.

3. A counter has been filed by the respondents stating that in the cross examination of Nagendran as D.W.1 in O.S.No.109 of 2004 on the file of the Principal Subordinate Court, Tiruvannamalai, the said Nagendran has deposed that the 2nd defendant's husband's name is Kannan and their elder son is Suresh Kumar and had categorically denied that the said Suresh Kumar is his foster son. Therefore, they would contend that the averments made in the affidavit filed in support of the petition is totally false.

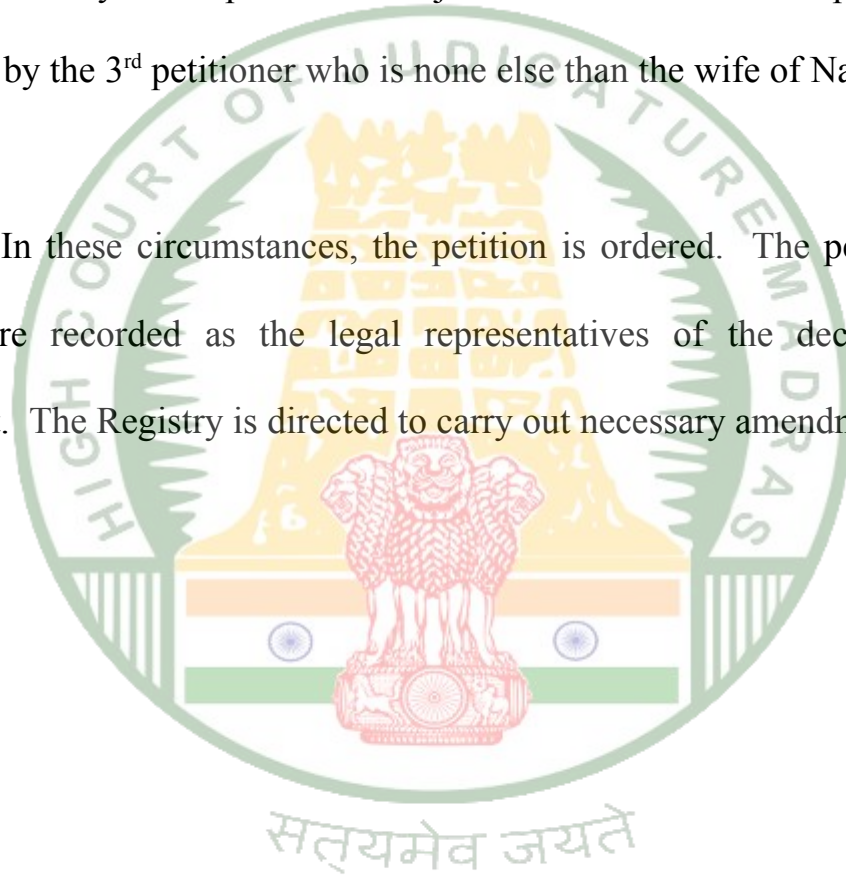
4. In the Judgement of the Trial Court it is seen that D.W.2 who is the son-in-law of the 2nd defendant, Rajeswari has adduced evidence to the effect that Suresh Kumar, the 2nd petitioner herein has been adopted by the 1st petitioner. Marriage invitation of the said Suresh Kumar has been marked as Ex.A.28, in which he has been referred to as the adopted son of the 1st petitioner as well as Chandra Sekaran. D.W.2 has also adduced evidence to the effect that he is none other than the brother-in-law of Suresh Kumar who is the son of the 2nd defendant, sister of the said Nagendran.

5. Considering the fact that the present petition is only a petition for bringing on record the legal representatives to continue the proceedings the defense taken by the respondents is rejected. The factum of adoption is also admitted by the 3rd petitioner who is none else than the wife of Nagendran.

6. In these circumstances, the petition is ordered. The petitioners 2 and 3 are recorded as the legal representatives of the deceased sole appellant. The Registry is directed to carry out necessary amendment.

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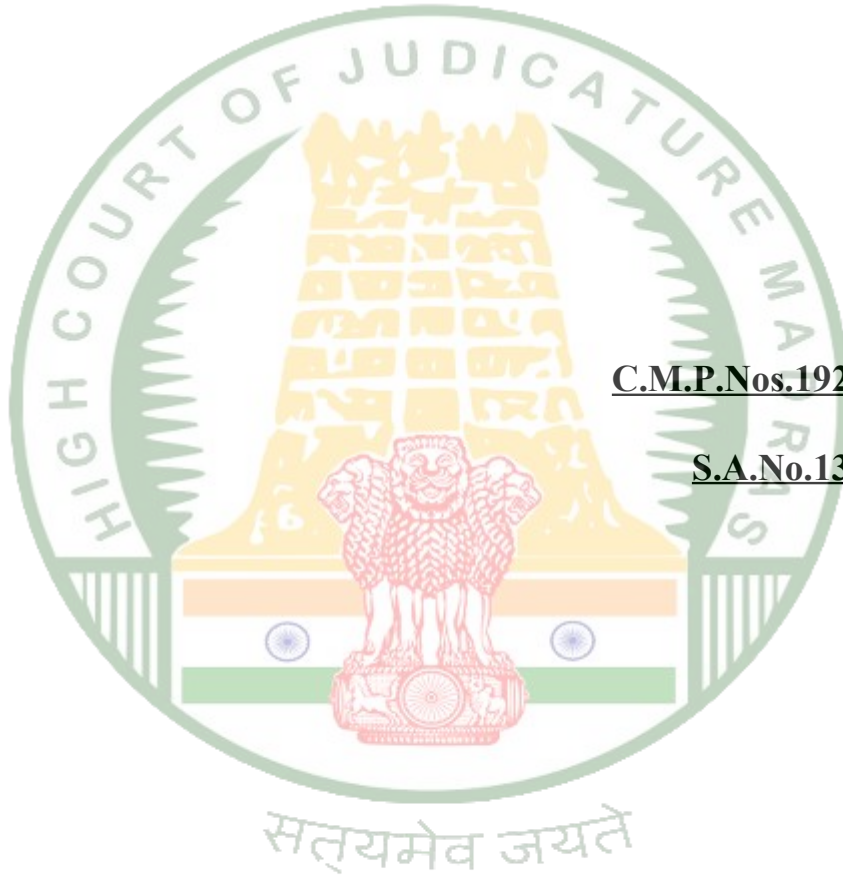
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