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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.04.2022

CORAM:

**Mr. JUSTICE N.SESHASAYEE**

**C.R.P(PD)No.1143 of 2022**  
**& CMP.No.5953 of 2022**

1.Mrs.Wasila Banu

2.M.Abdul Hameed

...Petitioners

Vs

M.Khaja Mohideen (Deceased)

1.Shamsath

2.Rehana

Mrs.Asha Bee (Deceased)

3.Mahaboob Bee

4.Peer Mohammed

5.Mohammed Safi

...Respondents



PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order in I.A.No.01/2019 in O.S.No.1010/2011 dated 07.02.2022 on the file of Learned VII Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.R.Vijayaraghaven

### **ORDER**

The revision petitioners herein moved an Application to implead themselves in a suit, which is pending between the respondents in O.S.No.1010 of 2011. The second petitioner is the husband of the first petitioner. The Suit is laid for partition. The contention of the first petitioner is that there was a certain Abdul Rahman, who is her paternal uncle, that Abdul Rahman married Asha Bee, that the couple did not have any issues themselves, and hence they brought up the revision petitioner as their child and she claims right to succeed to the estate of Abdul Rahman and Asha Bee. This was dismissed by the trial Court and hence, the Revision.



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2.Heard, Mr.R.Vijayaraghaven, learned counsel for for the revision petitioners.

3.The first petitioner claims herself to be either the adopted child or the foster child of Abdul Rahman and Asha Bee. This Court entertained a doubt that even if she has been a foster child of Abdul Rahman, whether she has a right to succeed to the estate of the Abdul Rahman, since adoption as is known in Hindu Law, is unknown in Mohammedan Law.

4.The learned counsel for the revision petitioners placed reliance on the order of the Hon'ble Supreme Court in *Shabnam Hashmi vs Union of India & others* [Writ Petition (Civil) No.470 of 2005] and argued that there are discussions to grant right of adoption even as a fundamental right.

5.The debates may be on but, the law is not altered under Mohammedan Law. There cannot be any adoption, though a Mohammedan can foster a child but, no such child is entitled to succeed to the estate of the Mohammedan or the



foster parents. Thereafter, the revision petitioner cannot claim any share in them as to seek their impleadment in the suit.

6. Therefore, this Court is not inclined to interfere with the order of the trial Court. Hence, the Civil Revision Petition is dismissed at the admission stage itself. Consequently, the connected miscellaneous petition is closed. No costs.

28.04.2022

Index : Yes/No

Tsg/dk

To

The VII Additional Judge,

City Civil Court, Chennai.



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N.SESHASAYEE, J.,

Tsg/dk

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