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CRP.No.848 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP.No.848 of 2023

S.Radha

... Petitioner

Vs.

1.Gnanambal

2.N.Manavalan

3.N.Balaji

4.N.Mohankumar

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the impugned non-maintainability docket order dated 29.12.2022 passed in the Maintenance Petition bearing MCSR.No.2469 of 2022 on the file of the Principal Family Court, Chennai and to allow this civil revision petition.

For Petitioner : M/s.G.Kiruthika



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ORDER

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This civil revision petition is filed to set aside the docket order dated 29.12.2022 passed in the Maintenance Petition bearing MCSR.No.2469 of 2022 on the file of the Principal Family Court, Chennai.

2. The revision petitioner is a widow daughter, who filed application claiming maintenance from the respondents who are enjoying the life estate of her deceased father Narayanasamy by invoking Section 22 of Hindu Adoption and Maintenance Act, 1956, but the said application was rejected by the trial Judge stating that as a widow, she is entitled to claim maintenance from her mother in law and not from the legal heirs of his deceased father. Hence, the petition was dismissed. For that, she relied upon the provision under Section 21 (vi) (c) of Hindu Adoption and Maintenance Act. Section 21 of the said Act defines the dependents as follows:

21. Dependants defined.-For the purposes of this Chapter “dependants” mean the following relatives of the deceased:-

- (i) his or her father;
- (ii) his or her mother;
- (iii) his widow, so long as she does not re-marry;
- (iv) his or her son or the son of his predeceased son



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or the son of a predeceased son of his pre-deceased son, so long as he is a minor: provided and to the extent that he is unable to obtain maintenance, in the case of a grandson from his father's or mother's estate, and in the case of a great-grandson, from the estate of his father or mother or father's father or father's mother;

(v) his or her unmarried daughter, or the unmarried daughter of his predeceased son or the unmarried daughter of a predeceased son of his predeceased son, so long as she remains unmarried: provided and to the extent that she is unable to obtain maintenance, in the case of a grand-daughter from her father's or mother's estate and in the case of a great-grand-daughter from the estate of her father or mother or father's father or father's mother;

(vi) his widowed daughter: provided and to the extent that she is unable to obtain maintenance- (a) from the estate of her husband; or (b) from her son or daughter if any, or his or her estate; or (c) from her father-in-law or his father or the estate of either of them;

(vii) any widow of his son or of a son of his predeceased son, so long as she does not re-marry: provided and to the extent that she is unable to obtain maintenance from her husband's estate, or from her son or daughter, if any, or his or her estate; or in the case of a grandson's widow, also from her father-in-law's estate;



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(viii) his or her minor illegitimate son, so long as he remains a minor;

(ix) his or her illegitimate daughter, so long as she remains unmarried.

3. By relying the provision under Section 21 (vi) (c) of Hindu Adoption and Maintenance Act, the learned counsel for the petitioner submits that since the petitioner being a widow, not having any other source of income from her father in law family and the respondents who are the legal heirs of her father enjoying the estate of her father, hence she is entitled to claim maintenance as per the above provision of law. But the trial Judge erroneously rejected the application.

4. Considering the submissions made by the learned counsel for the petitioner that being a widow daughter, she is entitled to claim maintenance as per Section 21 (vi) (c) of Hindu Adoption and Maintenance Act, the application as such is maintainable in law. Therefore, the trial Judge is directed to take up the above application and dispose of the same as expeditiously as possible.



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5. With the above direction, this civil revision petition is disposed of.

There shall be no order as to costs. The original application is ordered to be returned to the revision petitioner by the Registry forthwith.

03.04.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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Note: Issue order copy on 10.04.2023



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To
The Principal Family Court, Chennai



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T.V.THAMILSELVI, J.

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