



WEB COPY



W.A.No.1955 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

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1. The chief Controlling Revenue Authority
and Inspector General of Registration
Santhome High Road
Chennai 600 038.
 2. The District Registrar
Dharmapuri.
 3. The Joint Sub Registrar – 1
Dharmapuri.
- .. Appellants

Vs.

M.Jayam .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against
the order dated 09.06.2022 in W.P.No.12107 of 2014.

For the Appellants : Mr.P.Muthukumar
State Government Pleader
assisted by Mr.Karthick Jegannath
Government Advocate



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JUDGMENT
(Delivered by the Hon'ble Chief Justice)

Heard Mr.P.Muthukumar, learned State Government Pleader assisted by Mr.Karthick Jegannath, learned Government Advocate appearing for the appellants.

2. The respondent herein had filed W.P.No.12107 of 2014 before the learned Single Judge, thereby challenging the order passed by the present appellants demanding stamp duty on the settlement deed.

3. The case of the original writ petitioner is that the petitioner adopted one Agnes Selina Mary, daughter of a close relative of the petitioner under the deed of adoption dated 02.07.1990 and registered the same on 05.07.1990, bearing Registration Document No.8/BK.IV of 1990. Settlement deed was entered into on 01.06.2011 and the said document was registered as Document No.1577 of 2011 in the office of the Joint Sub-Registrar I, Dharmapuri. After registration, demand notice dated 11.02.2013 was issued, demanding



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deficit stamp duty of Rs.2.58 lakhs on the ground that adoption in Christianity is not recognized, as such, the person in whose favour the settlement deed is executed is not a family member.

4. Mr.P.Muthukumar, learned State Government Pleader submits that under the Christian Law, there is no provision recognizing the concept of adoption. In the absence of a provision authorizing a Christian person to adopt, the alleged adopted child does not become a family member and as the adopted child does not become a family member, there cannot be a settlement deed. The settlement deed can be only amongst the members of the family, as such, the deficit stamp duty of Rs.2.58 lakhs was rightly demanded. It is submitted that the Juvenile Justice (Care and Protection of Children) Act was enacted in the year 2000 and thereafter only, Christians were entitled to adopt. Any adoption prior to it is *void ab inito*.

5. It does not appear to be a matter of dispute that on 02.07.1990 adoption deed was executed and the same was registered on 05.07.1990, thereby the petitioner adopting one Agnes Selina Mary. It is also stated that the adoption ceremony was performed at

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the Sacred Heart Church, Dharmapuri. For all these years, the said Agnes Selina Mary is treated as an adopted daughter of the petitioner. At the time of registration of the adoption deed, the Sub-Registrar never raised any objections. The said adoption deed was registered and upon being asked, learned State Government Pleader could not find out any prohibition upon the Christian persons to adopt.

6. Learned Single Judge has relied upon the Canon Law to suggest that adoption is permissible. The Canon Law does not prohibit adoption. Canons 110 and 111 of the Code of Canon Law, commissioned by the Canon Law Society of America states that, "the children who have been adopted according to the norm of civil law are considered as being the children of the person or persons who have adopted them." In the absence of any prohibition, we do not find that the learned Single Judge has committed any error while passing the impugned order.



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7. The writ appeal, as such stands dismissed. There will be no order as to costs. Consequently, C.M.P.No.16668 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)
01.08.2023

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(drm)

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