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CMP.No.3722 of 2022
in
OSA.No.245 of 2021

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

(Order of the Court was made by R.MAHADEVAN, J.)

This petition has been filed by the respondents 2 and 3 in the aforesaid Original Side Appeal, who are the sons of the first appellant by name, Rajeswari (deceased) seeking to transpose them as appellants 2 and 3 in the appeal.

2. The learned counsel for the petitioners submitted that originally, the appellant Rajeswari filed a petition in OP.No.426 of 2012 to probate the Will executed by his husband Nadaraja Pillai @ Sappany Pillai. The petitioners are the sons; and the respondents 1 and 4 in the appeal, are the daughters of the said Rajeswari. The said petition was ordered on 19.12.2012. Challenging the same, the first respondent / daughter filed A. No. 3556 of 2013 to revoke the probate granted on 19.12.2012. By order dated 02.02.2021, the said application was allowed and thereby the probate order was revoked. Aggrieved by the same, the said Rajeswari filed the above appeal to set aside the order dated 02.02.2021 passed in A. No. 3556 of 2013. During the pendency of the appeal, the said Rajeswari died on 05.10.2021; and during her life time, she executed a settlement deed dated 03.12.2010 in respect of the properties mentioned in the Will, in favour of the petitioners herein. In view of the same, the petitioners are



the only legal heirs of the appellant herein and they are inclined to contest the appeal filed by their mother Rajeswari (deceased) as appellants 2 and 3. Therefore, this miscellaneous petition.

3. The learned counsel appearing for the respondents 1 and 4/daughters of the deceased Rajeswari, has no serious objection for ordering this petition.

4. Considering the reasons stated in the affidavit filed in support of this petition and also taking note of the submissions made by the learned counsel appearing on either side, this petition is ordered as prayed for.

5. Registry is directed to carry out the necessary amendment in the original side appeal.

[R.M.D., J.] [M.S.Q., J.]
20.12.2023

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