

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.2473 of 2018

and

C.M.P(MD) No.10959 of 2018

1. Dhesikan
2. Vijayakumari

... Petitioners/Petitioners

-VS-

1. P.Damodharan
2. P.Bhavathi Ammal
3. P.Madavan Pillai
4. P.Pankajam
5. P.Meena
6. P.Ashokan

... Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.06.2018 passed in S.O.P.No.218 of 2017 on the file of the Principal District Judge, Kanniyakumari at Nagercoil.

For Petitioners : Mr.M.Saravanan

For Respondents : Mr.G. Prabhu Rajadurai

ORDER

The present Civil Revision Petition has been filed by the petitioners under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.06.2018 passed in S.O.P.No.218 of 2017 on the file of the learned Principal District Judge, Kanniyakumari at Nagercoil.

2. Both side counsels are present.

3. The short point to be decided in this case is whether the Memo filed by the learned counsel for the petitioners withdrawing the S.O.P.No.218 of 2017 can be acted upon without the signature of the parties.

4. The learned counsel appearing for the petitioners would submit that when there was a dispute in respect of the estates of the second petitioner's husband namely, P.Anancha Perumal, they moved a Succession Original

Petition in S.O.P. No.218 of 2017 before the learned Principal District Judge, Kanniyakumari at Nagercoil. But according to the petitioners, without their consent, the said S.O.P was withdrawn.

5. This Court has perused the Memo which was filed before the Court below. The same was filed only by the Advocate on behalf of the petitioners. Admittedly, petitioners' signature not found a place in the Memo. It is pertinent to mention here that the petitioners filed an affidavit before this Court that stating that, they have not given any instruction to their counsel to withdraw the said Succession Original Petition.

6. Having considered the affidavit of the petitioners herein and also from the fact that the petitioners did not sign in the Memo, which was filed for withdrawal of Succession Original Petition, this Court deems it appropriate to set aside the order passed by the Court below, in dismissing the Succession Original Petition based upon the Memo filed by the learned Advocate.

7. In the result, this Civil Revision Petition stands **allowed** and thereby, S.O.P.No.218 of 2017 is ordered to be restored on file before the Court below. The Court below is directed to dispose of the same according to law as expeditiously as possible. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

08.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Principal District Judge,
Kanniyakumari at Nagercoil.

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C.KUMARAPPAN,J.

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