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C.R.P.No.804 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.804 of 2024
and
C.M.P.No.3969 of 2024

M.Baby

... Petitioner

Vs.

M.Srihari

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decretal order dated 01.12.2023 made in I.A.No.1 of 2023 in O.S.No.62 of 2017 on the file of First Additional District Judge, Coimbatore.

For Petitioner

: Mr.N.Ishtiaq Ahmed

ORDER

Aggrieved by the order dismissing the application to reject the plaint, the 1st defendant in the suit has come by way of this revision.

2. The respondent herein filed a suit for partition claiming $\frac{1}{2}$ share in

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the suit property. As per the averments found in the plaint, the respondent is the adopted son of one Mohana Sundaram and petitioner herein appeared to be the wife of said Mohana Sundaram. After death of Mohana Sundaram, the respondent is claiming $\frac{1}{2}$ share in the suit property in his capacity as adopted son of Mohana Sundaram. The petitioner herein filed written statement denying the adoption. Whether the adoption pleaded by the respondent is valid or not is the question to be gone into at the time of trial and the same cannot be decided in a petition for rejection of the plaint.

3. The learned counsel for the petitioner submitted that only the learned District Magistrate can go into the question regarding the validity of the adoption under provisions of Juvenile Justice Act and hence, the Civil Court has no jurisdiction to decide the validity of the adoption.

4. From the averments found in the plaint, the respondent herein claimed himself as adopted son of Mohana Sundaram. It was not his case that he was adopted by following the provisions of Juvenile Justice Act. When there is no plea in the plaint that adoption was made under provisions of



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Juvenile Justice Act, the argument made by the learned counsel for the petitioner cannot be accepted and the Civil Court can very well go into the question of validity of adoption. Therefore, I do not think that this is a case for rejection of the plaint. The Trial Court rightly dismissed the application on the ground that at the time of deciding the application for rejection of the plaint, the Court can only consider the averments found in the plaint and it cannot go beyond that. I do not find any error in the impugned order. Accordingly, the Civil Revision Petition stands dismissed.

5. It is made clear that validity of the adoption has to be considered by the Trial court along with other issues at the time of final disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

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S.SOUNTHAR, J.

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To

The learned I Additional District Judge, Coimbatore.

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