



CRP No.2883 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.2883 of 2024
and CMP No.15318 of 2024

1.T.Theeran

2.T.Vasan

.. Petitioners

-VS-

1. C.Rathinakumar

2. R.Balamurugan

3. C.Murugan

4. M.Chellamani

5. T.Anbalagan

6. Usharani

7. Raja

M.A.Jayakrishnan(Died)

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.11.2023 made in I.A.No.5 of 2023 in O.S.No.100 of 2011 on the file of Principal District Munsif Court, Kanchipuram.



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WEB COPY For Petitioners : Mr.T.Sathiyamoorthy
For Respondents : Ms.J.Nathiya
for Mr.M.Ganesh for R-5

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ORDER

This civil revision petition arises against the order of the learned Principal District Munsif, Kanchipuram, in I.A.No.5 of 2023 in O.S.No.100 of 2011 dated 21.11.2023.

2. The plaintiffs are the civil revision petitioners. They moved an application under Order 13 Rule 3 of the Code of Civil Procedure to reject Exs.B.1 to B.4 which had been marked on 04.01.2023. The case of the plaintiffs is that the first defendant had been given life estate and the vested remainder had been given to them. The first defendant had alienated the property in favour of third parties and hence, they came forth with O.S.No.100 of 2011. Pending the suit, C.Rathinakumar was examined as D.W.1. He pleaded that he adopted the second defendant on 31.01.1990



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which was reflected in the Adoption Deed dated 21.02.2003 which was also registered. The civil revision petitioners pleaded that the said document was inadmissible in evidence by virtue of Section 10 of the Hindu Adoption and Maintenance Act, 1956. Therefore, they wanted to reject the same.

3. The first respondent pleaded that he adopted his sister's son and did not find a necessity to execute an adoption deed immediately. Since the necessity of registering the document arose, subsequently it was registered on 21.02.2003. The learned Judge dismissed the application by applying the judgment of the Supreme Court in ***Bipin shantilal Panchal vs. State of Gujarat and Anr.*** reported in ***(2001) 3 SCC 1***. Against which, this revision.

4. Heard Mr.Sathiyamoorthy for the petitioner and Ms.Nathiya for Mr.M.Ganesh, for the fifth respondent.

5. A perusal of the impugned order shows that the learned Judge has reserved the admissibility and relevancy of the document at the time of final disposal. All that the learned Judge has done in the present case is to



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receive the documents. Under Order XIII Rule 3 of the Code of Civil Procedure, unless and until the document is inadmissible in law or irrelevant, the same cannot be rejected. Whether the first defendant took on the adoption of the second defendant or not would be a relevant fact for the purpose of decision in the case. Therefore, I cannot conclude that it is irrelevant. Nonetheless, the learned Judge having reserved the right of the plaintiffs to raise the issue at the time of final disposal, I do not find any reason to interfere with the order. Accordingly, Exs.B.1 to B.4 shall be received by the trial Court subject to relevancy and proof.

6. With the above observation, the civil revision petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No

sra



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WEB COPY To

The Principal District Munsif Court,
Kanchipuram.



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V.LAKSHMINARAYANAN, J.

(sra)

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