



CRP(MD).No.712 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2024

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.712 of 2024 and
CMP(MD).No.4795 of 2024

1.S. Jaya Padma
2.M.Janithambika

: Petitioners / defendants

Vs.

1. Minor Jenin Frank Tuff,
(rep. by his mother / 2nd petitioner)

2.Jacqueline Soundari

: Respondents / defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order, dated 22.12.2023 passed by the learned Additional District Munsif Cum Sessions Judge, Kuzithurai in I.A.No.2 of 2022 in O.S.No.195 of 2021.

For Petitioners : Mr.S.Rajasekar

For respondents : Mr.J. John Jaya Kumar

ORDER

This Civil Revision Petition has been filed against the fair and



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decreetal order, dated 22.12.2023 made in I.A.No.2 of 2022 in O.S.No.195 of 2021 on the file of the Additional District Munsif Cum Sessions Judge, Kuzithurai.

2. The respondents as plaintiffs filed the above suit in O.S.No.195 of 2021 on the file of the Additional District Munsif – Cum - Sessions Judge, Kuzithurai for partition. Pending suit, the revision petitioners / defendants filed an application in I.A.No.2 of 2022 in O.S.No.195 of 2021 for rejection of the plaint on the ground that the plaintiffs are not Hindu and have converted to another religion and therefore, the suit for partition under the Hindu Succession Act, 1956 is absolutely barred. It is submitted that the plaint is silent about the personal law of the plaintiffs. However, the trial Court without considering the above said facts erroneously dismissed the application filed by the revision petitioners / defendants for rejection of the plaint.

3. In spite of the notice served on the respondents, they have failed to appear.

4. Heard the learned counsel appearing for the revision petitioners /



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plaintiffs and perused the materials available on record.

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5. Admittedly, the suit has been filed by the respondents / plaintiffs for partition. Pending suit, the revision petitioners / defendants filed an application to reject the plaint under Order 7 Rule 11(a)(b) CPC. The plaint averments does not disclose about the religion. The contention of the revision petitioner is that the plaintiffs are Christians and the suit for partition under the Hindu Marriage Act, 1966 is not maintainable is a matter for adjudication. Therefore, at this juncture, the plaint cannot be rejected without any evidence. Hence, this Court decides that the above Civil revision petition is devoid of merits and the same is liable to be dismissed.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To
The District Munsif Cum Sessions Judge,
Kuzithurai



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K. GOVINDARAJAN THILAKAVADI, J.,

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