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S.A.No.900 of 2024
and C.R.P.Nos.4448 and 4451 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2026

PRONOUNCED ON : 26.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.900 of 2024
and C.R.P.Nos.4448 and 4451 of 2023
and C.M.P.Nos.26851 and 26868 of 2023

S.A.No.900 of 2024:

L.Arun

... Appellant

vs.

L.Saran (Deceased)

L.Pushpammal (Died)

1.S.Renuka

2.S.Varshini

3.S.Dharshini

4.The Tahsildar

Tambaram Sanatorium,
Tambaram, Chennai-600 045.

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 23.07.2024 made in A.S.No.133 of 2021 by the Subordinate Court, Alandur and to restore the judgment and decree dated 11.10.2011 made in O.S.No.796 of 2007 by the



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Additional District Munsif Court, Alandur by allowing the above Second Appeal.

For Appellant : Mrs.Hema Sampath
Senior Advocate
M/s.N.Mariappan

For R1 to R3 : Mr.N.Jothi
Senior Advocate
for M/s.S.Vinod

For R4 : Mr.N.Muthuvel
Government Advocate (CS)

C.R.P.No.4448 of 2023:

L.Pushpammal (Since Died)

1.S.Renuka

2.S.Varshini and Yaga Varshini

3.S.Dharshini

... Petitioners

(Cause title accepted vide Court order dated 09.11.2023 made in CMP.No.24367 of 2023 in CRP.Sr.No.136126 of 2023)

vs.

1.L.Arun @ Murugaiyaa

2.V.Shivaji

3.V.Kumar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and Decretal Order dated 15.09.2023 made in I.A.No.5 of 2021 in O.S.No.41 of 2008 by the Sessions Judge, Mahila Court, Chengalpattu by allowing this Civil Revision Petition.

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For Petitioners : Mr.N.Jothi
Senior Advocate
for M/s.S.Vinod

For R1 : Mrs.Hema Sampath
Senior Advocate
M/s.N.Mariappan

C.R.P.No.4451 of 2023:

1.V.Shivaji

2.V.Kumar

... Petitioners

vs.

1.L.Arun @ Murugaiyaa

L.Pushpammal (Died)

2.S.Renuka

3.S.Varshini @ Yaga Varshini

4.S.Dharshini

... Respondents

*(Cause title accepted vide Court order dated 06.11.2023 made
in CMP.No.24517 of 2023 in CRP.Sr.No.136502 of 2023)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and Decretal Order dated 15.09.2023 made in I.A.No.2 of 2020 in O.S.No.41 of 2008 by the Sessions Judge, Mahila Court, Chengalpattu by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Jothi, Senior Advocate
for M/s.S.Vinod

For Respondents : No Notice Order



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COMMON JUDGMENT

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The appellant herein filed a suit in O.S.No.796 of 2007 seeking declaration that he is a Legal Heir of late L.Lakshmanan @ Yaghava Munivar and for Mandatory Injunction directing the 3rd respondent-Tahsildar to issue Legal Heirship Certificate to him. He also sought for a declaration that Legal Heirship Certificate already issued dated 18.02.2002 was null and void. The suit was decreed by the Trial Court and the appeal filed by the predecessor-in-interest of the respondents/deceased defendants was allowed by the First Appellate Court. Aggrieved by the said reversal finding, the plaintiff has come before this Court.

2. The appellant herein also filed a suit for partition in respect of the estate of L.Lakshmanan @ Yaghava Munivar in O.S.No.41 of 2008 on the file of the Sessions Judge, Mahila Court, Chengalpattu and the respondent herein, who were arrayed as defendants in the said suit filed applications in I.A.No.2 of 2020 and I.A.No.5 of 2021 seeking rejection of the plaint. The said applications were dismissed by the Trial Court and aggrieved by the same, the defendants therein have filed two civil revision petitions in C.R.P.Nos.4448 and 4451 of 2023.

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3. The decision in second appeal will have a bearing on the final outcome of the civil revision petitions, hence, all the matters are taken together for final disposal.

4. According to the appellant/plaintiff, he is the eldest son of late L.Lakshmanan @ Yaghava Munivar. The deceased 1st defendant-L.Saran was his younger brother and the deceased 2nd defendant was his mother. It was also stated in the plaint that late L.Lakshmanan @ Yaghava Munivar formed a Trust in the name of 'YAGHAVA VASIYA ADHIVEDHA ADAM GNANA KOOTAM' and registered the same as Document No.447 of 1994. The Trust activities were conducted jointly by the plaintiff and defendants under the direct supervision of late L.Lakshmanan @ Yaghava Munivar. It was also stated that L.Lakshmanan @ Yaghava Munivar died on 26.12.2000 leaving behind the plaintiff and defendants as his Legal Heirs.

5. It was also stated that L.Lakshmanan @ Yaghava Munivar executed a document dated 27.11.1995, wherein he appointed two other persons as Trustees of the Trust created by him along with existing three Trustees. The plaintiff and 1st defendant were appointed as Administrators of the Trust. It was also claimed that after death of L.Lakshmanan @ Yaghava

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Munivar, there was misunderstanding between the plaintiff and defendants and the 1st defendant started acting against interest of the plaintiff and attempted alienation of the properties. Further, they also obtained a Legal Heirship Certificate, as if they alone were Legal Heirs of L.Lakshmanan @ Yaghava Munivar. Hence, the present suit was filed seeking above said declaration and other incidental prayers.

6. The defendants 1 and 2 filed written statement and denied the averment in the plaint, as if the plaintiff was eldest son of L.Lakshmanan @ Yaghava Munivar. According to the defendants 1 and 2, the plaintiff was an orphan and his parentage was not known. The L.Lakshmanan @ Yaghava Munivar took pity on the abandoned child and provided him with food, clothing and education etc. It was also stated that L.Lakshmanan @ Yaghava Munivar brought him up and helped him to get married and provided him with properties. It was also stated that the plaintiff was not Member of the family and he never lived with the family member of L.Lakshmanan @ Yaghava Munivar. It was also asserted that the 1st defendant was only son of L.Lakshmanan @ Yaghava Munivar through 2nd defendant. According to the defendants 1 and 2, the Legal Heirship Certificate was issued by the 3rd defendant/Tahsildar with proper enquiry and after considering the



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objections of the plaintiff. Hence, it was a valid document. On these pleadings, they sought for dismissal of the suit.

7. After filing of written statement by the defendants 1 and 2, the plaintiff amended the plaint and included a plea that he was adopted by L.Lakshmanan @ Yaghava Munivar in the year 1972 and adoption was made in the presence of elders at Perumbakkam, Chennai as per the Customs, by providing rice, flowers, fruits, dhoty, saree and cash to the natural parents by the adoptive father, L.Lakshmanan @ Yaghava Munivar. It was also stated in the amended plaint that after adoption of the plaintiff, the 1st defendant was born to his adoptive parents and L.Lakshmanan @ Yaghava Munivar had shown love and affection towards plaintiff as he become developed in wealth as well as in the spiritual field only after adoption of plaintiff.

8. After amendment of the plaint by the plaintiff by including the plea of adoption, an additional written statement was filed by the 2nd defendant, wherein the plea of adoption was specifically denied. According to the defendants 1 and 2, there is no valid adoption and hence, they sought for dismissal of the suit.



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9. Before the Trial Court, the plaintiff was examined as PW.1. One

independent witness was examined to prove the plea of adoption as PW.2.

On behalf of the plaintiff, 8 documents were marked as Exs.A1 to A8. On behalf of the defendants, the alleged adoptive mother/2nd defendant was examined as DW.1 and no documentary evidence was marked on the side of the defendants. The Legal Heirship Certificate obtained by the defendants was marked as Ex.C1.

10. The Trial Court on appreciation of evidence available on record, came to the conclusion that the plaintiff was adopted son of late L.Lakshmanan @ Yaghava Munivar and the 2nd defendant and decreed the suit as prayed for.

11. It is pertinent to mention that pending suit, the 1st defendant died, his wife and other defendants were brought on record as defendants 4 to 6. The judgment and decree passed by the Trial Court was challenged by the defendants in A.S.No.133 of 2021 on the file of the Subordinate Court, Alandur and the said appeal was allowed by reversing the findings of the Trial Court. Aggrieved by the same, the plaintiff has come before this Court.



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12. At the time of admission of second appeal, this Court formulated

the following substantial questions of law, by order dated 17.12.2024:-

“(1)Whether the Appellate Court is right in Law in holding in Para 17 of the impugned Judgment that “the plaintiff has not established the adoption in the manner it ought to be proved” without analysing the recitals found in Ex.A.1 to Ex.A.4 and Ex.A8 filed by the plaintiff before the Trial Court?

(2)Whether the Appellate Court is right in Law in allowing A.S.No.133 of 2021 without drawing presumption of consent of the 2nd defendant in adopting the plaintiff by her deceased husband, L.Lakshmanan @Yaghava Muniver in 1972 A.D. from Ex.A.1 to Ex.A5 and Ex.A8, while taking into note of the provisio to Section 7 of the Hindu Adoptions and Maintenance Act, 1956 by the Appellate Court? ”

13. The learned Senior Counsel appearing for the appellant would submit that the First Appellate Court committed an error in giving a finding that plea of adoption was not proved by overlooking material documentary evidences produced by the plaintiff under Exs.A1 to A5 and A8. It is submitted by the learned Senior Counsel that L.Lakshmanan @ Yaghava Munivar and both the defendants have signed in the Ex.A1 document,



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wherein the plaintiff has been described as son of L.Lakshmanan @ Yaghava

Munivar. The learned Senior Counsel also submitted that Ex.A2-Marriage Invitation, Ex.A4-School Transfer Certificate of Arun, Ex.A8-Wedding Invitation prepared by brother of L.Lakshmanan @ Yaghava Munivar etc., goes to prove that plaintiff has been treated as son of L.Lakshmanan @ Yaghava Munivar and 2nd defendant. The learned Senior Counsel by taking this Court to evidence of PW.2 submits that the same has been overlooked by the First Appellate Court. In support of her contention, the learned Senior Counsel for the appellant relied on the following judgments:-

- (i) ***L.Debi Prasad (dead) by L.Rs vs. Smt. Tribeni Devi and others*** reported in ***AIR 1970 SC 1286***.
- (ii) ***Kanthammal vs. Bysani Sriramulu Chetti and another*** reported in ***1987 (100) LW 71***.
- (iii) ***Ananthi vs. Ponnammal @ Vijayalakshmi*** reported in ***2007 (1) CTC 660***.
- (iv) Unreported judgment of this Court in ***M.Raju vs. Sampathkumar and another in S.A.No.491 of 2013, dated 31.10.2022***.



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14. The learned Senior Counsel appearing for the respondents 1 to 3 by taking this Court to Sections 9, 11 and 16 of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as the 'HAMA' for brevity) contended that there was no valid adoption as required under the statute in the present case. He also submitted that in the original plaint, there was no reference about adoption and the plaint proceeded, as if the plaintiff was eldest son of L.Lakshmanan @ Yaghava Munivar and only after filing of the written statement denying the status of the plaintiff as son of L.Lakshmanan @ Yaghava Munivar, an amendment application has been filed and plea of adoption was introduced in the plaint by way of amendment. He further submitted that no document relating to adoption were referred to in the plaint. It is also submitted that no notice was issued to 3rd defendant, Government Official under Section 80 of the Code of Civil Procedure and therefore, the suit is not maintainable. He also submitted that the adoption has not been proved by satisfactory evidence and no declaration was sought for that plaintiff was adopted son and hence, the suit is liable to be dismissed.



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15. In support of his contention, the learned Senior Counsel for the

respondents 1 to 3 relied on the following judgments:-

- (i) *M.Vanaja vs. M.Sarla Devi* reported in (2020) 5 SCC 307.
- (ii) *Amarendra Man Singh Bhramarbar and another vs. Sanathan Singh and others* reported in AIR 1933 PC 155.
- (iii) *L.Debi Prasad (dead) by L.Rs vs. Smt. Tribeni Devi and others* reported in 1970 (1) SCC 677.
- (iv) *Smt.Dhanno wd/o Balbir Singh and others vs. Tuhi Ram (Died) son of Puran son of Raje and others* reported in AIR 1996 (Punjab and Haryana) 203.
- (v) *Province of Madras, represented by the Collector of Madura vs. R.B.Poddar Fir through its managing partner, Motilal Famra* reported in AIR 1949 Madras 214.
- (vi) *Governor-General in Council, represented by the General Manager, Madras and Southern Mahratta Railway vs. Gujrathi Sankarappa being minor by next friend and paternal uncle Moroji* reported in AIR 1953 Mad 838.
- (vii) *The Executive Officer, Arulmigu Yoganarasimmar Devasthanam, Velacherry vs. S.Kuppan* reported in (2012) 5 LW 171.



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16. In her reply argument, the learned Senior Counsel appearing for

the appellant submitted that the objection with regard to the non-issue of notice under Section 80 of Code of Civil Procedure was not raised in the written statement and therefore, it is deemed to be waived. It is also submitted that objection can be raised only by the Government and in the case on hand, the 3rd respondent remained *exparte*. The learned Senior Counsel also submitted that failure of the plaintiff to plead adoption in the original plaint will not affect his case as the amendment would go back to the date of the plaint. It was also stated that in the Wedding Invitation, the names of both the adoptive parents were mentioned and the said document was marked without objection. In support of her contention, she relied on the judgment of Apex Court in *Siddalingamma and another vs. Mamtha Shenoy* reported in *(2001) 8 SCC 561*.

17. It is seen from the pleadings in the original plaint filed by the plaintiff, there is no whisper about adoption of the plaintiff by L.Lakshmanan @ Yaghava Munivar and his wife. The plaintiff only claimed himself as eldest son of L.Lakshmanan @ Yaghava Munivar. After denial of his status as son of L.Lakshmanan @ Yaghava Munivar in the written statement filed by the defendants, plaint was amended and plea regarding

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adoption was included in the plaint by including Paragraph No.2.A and 2.B in the plaint.

18. A perusal of the newly introduced paragraph would indicate that the plaintiff pleaded that he was adopted by L.Lakshmanan @ Yaghava Munivar from his original parents in the year 1972 and adoption was made in the presence of elders at Perumbakkam, Chennai, as per the Customs, by providing rice, flowers, fruits, dhoty, saree and cash etc. Therefore, it is clear even in the amended plaint, there is no plea that adoption was made by L.Lakshmanan @ Yaghava Munivar with consent of his wife. The plaintiff has not even mentioned the names of his Natural Parents, who gave him in adoption.

19. Ofcourse, the non-mentioning of the natural parents is not fatal to the case because the plaintiff, who was allegedly adopted in young age may not be in a position to give particulars of his natural parents, unless he was informed of the same by his alleged adoptive parents. The non-mentioning of the names of natural parents and failure to plead consent of wife of L.Lakshmanan @ Yaghava Munivar are all only factors to be taken into consideration while taking a decision whether there was valid adoption as per the provision of HAMA.



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20. Section 9 of the HAMA declares only father or mother of a child

is entitled to give him adoption that too with the consent of other. In the absence of father and mother, the guardian of the child may give in adoption with the previous sanction of the Court.

21. Section 11 (vi) of HAMA makes it clear that the child to be adopted must be actually given and taken in adoption by the parents or guardians as the case may be with intention to transfer the child from the family of its birth to the family of its adoption. Therefore, in order to declare adoption is valid, the child shall be given and taken in adoption with intention to transfer the child from its natural born family to the adoptive family.

22. In order to prove adoption, one independent witness was examined as PW.2. In his evidence, he deposed that the parents of the plaintiff gave in adoption to L.Lakshmanan @ Yaghava Munivar. He has not mentioned anything about presence of L.Lakshmanan @ Yaghava Munivar's wife or her consent for taking plaintiff in adoption. Likewise, he admitted he was not aware of the names of the parents of plaintiff or their ancestry. Hence, absolutely there is no evidence on record to show that who are all the natural parents of the plaintiff. Though in his proof affidavit, PW.2



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mentioned that parents of plaintiff gave him in adoption to L.Lakshmanan @

Yaghava Munivar, during cross examination, he deposed that he had taken the plaintiff and handed over him to L.Lakshmanan @ Yaghava Munivar.

23. In his evidence, he deposed that at the time of adoption there were 4 peoples and their names were not known. Thereafter, he said one Boopathi was present. However, the said Boopathi was not examined and no reason has been given for his non-examination. PW.2 in his further cross examination deposed that he was known to plaintiff from his childhood. However, further stated that he was not aware of his educational qualification or the name of the school attended by him. He also deposed that he was not aware of name of the plaintiff's wife and timing of his marriage. Though he claimed that he was known to plaintiff from his childhood, his ignorance about educational qualification of the plaintiff, the timing of his marriage, name of his wife etc., creates serious doubt about his acquaintance with the plaintiff. Therefore, the evidence of PW.2 is not useful to come to a conclusion that the natural parents of the plaintiff actually gave him in adoption to L.Lakshmanan @ Yaghava Munivar. His evidence is also not useful to come to a conclusion that the adoption was made by L.Lakshmanan @ Yaghava Munivar with the concurrence of his wife.



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Therefore, essential ingredients of valid adoption as contemplated under proviso to Section 7 of HAMA and Section 11(vi) of HAMA are not at all complied.

24. It is pertinent to mention that PW.1 during the course of his examination had stated that L.Lakshmanan @ Yagava Munivar informed him that he was adopted in the presence of one Bai Ammal, Lakshmi Ammal and another of Perumbakkam Village. However, those persons named by him have not been examined to prove the fact of adoption, no proper explanation had been given for his failure to examine those persons. Infact, PW.1 during the further cross examination, mentioned that he could call them as witness. However, he had not taken any steps to examine them before the Court. It is also to be noted that PW.1 in his evidence has not mentioned the name of PW.2 as the person present at the time of adoption. Therefore, the very presence of PW.2 at the time of adoption is highly doubtful. PW.1 in his evidence also had stated that L.Lakshmanan @ Yagava Munivar informed him about adoption and therefore, it is clear that he was aware of alleged adoption even before filing of the suit. However, at the time of filing of the suit, he failed to raise plea of adoption and the same was raised only after filing of the written statement by the defendants 1 and 2.

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25. Ex.A4 is the Transfer Certificate of the plaintiff. In the said document, the name of L.Lakshmanan Nadar (Yagava Munivar) was mentioned in the 2nd column, which reads as follows:-

“Father or Guardian’s Name”

Therefore, from Ex.A4-Transfer Certificate we cannot conclusively come to a conclusion that the name of L.Lakshmanan @ Yagava Munivar was mentioned as father. Whether it was mentioned as a father or guardian is not clear. Hence, the said document is not useful to prove the adoption. It is also pertinent to mention that PW.1 in his evidence admitted when transfer certificate was applied for, L.Lakshmanan @ Yagava Munivar was not alive. However, in Ex.A4-Transfer Certificate in Column No.11, date of transfer certificate requisition by parent on behalf of the pupil was mentioned as 27th July 2001. However, according to the admission of PW.1, L.Lakshmanan @ Yagava Munivar was died on 26.12.2000 and he was not alive on the date of Transfer Certificate. He also admitted that he only applied for issuance of Transfer Certificate. In such circumstances, it is not known how in Column No.11, it was mentioned that application was filed by the parent of the pupil.



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26. In the plaint pleadings, it was mentioned that at the time of

adoption along with other articles like rice, flowers, dhoty and saree, cash was also paid. However, PW.2 in his evidence has not mentioned about payment of cash. The suggestion put to him that child was purchased by paying cash was denied by him. Ex.A6 is a notice issued by the plaintiff to Tahsildar prior to filing of the suit regarding issuance of Legal Heirship Certificate. In the said notice, the plaintiff has not mentioned about adoption by L.Lakshmanan @ Yagava Munivar. Though PW.1 in his evidence stated that he used to call L.Lakshmanan @ Yagava Munivar as his father like other relatives and the said fact was known to all the relatives, no relatives has been examined. Even though PW.1 in his cross examination recorded on 01.06.2011 referred about the presence of Bai Ammal and Lakshmi Ammal during adoption ceremony, in his cross examination on 30.06.2011, he deposed that he was not aware of the names of the persons, who were present at the time of adoption. PW.1 also admitted about the earlier suit filed by him regarding the Trust created by L.Lakshmanan @ Yagava Munivar. However, it was specifically admitted by him he had not mentioned about his status as adoptive son in the earlier suit. All these circumstances pointed out by this Court create serious doubt about the plea of adoption made by the plaintiff.



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27. It is pertinent mention that the adoption said to have taken place in the year 1972 subsequent to coming into force of HAMA, therefore, the adoption shall be in accordance with the mandatory provisions of the said Act.

28. The learned Senior Counsel appearing for the appellant heavily relied on Ex.A1, whereunder L.Lakshmanan @ Yaghava Munivar appointed plaintiff and 1st defendant as Administrative Trustees of the Trust created by him. No doubt, Ex.A1 was admitted by DW.1 during her cross examination. It is also seen L.Lakshmanan @ Yaghava Munivar, his wife-DW.1, the 1st defendant and the plaintiff signed in each and every page of the document. In the said document, L.Lakshmanan @ Yaghava Munivar referred plaintiff as his son. Absolutely, there is no reference about the adoption in Ex.A1. The L.Lakshmanan @ Yaghava Munivar did not refer plaintiff as his adoptive son in Ex.A1, he simply mentioned him as a son, whether he mentioned him as adoptive son or foster son is not known.

29. In this regard, it would be appropriate to refer to the decision of the Apex Court in *M.Vanaja* case sited supra, wherein it was held that merely because, there was evidence to show that a girl was treated as

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daughter by a couple, it shall not be taken as evidence of adoption, unless the mandatory conditions required under the HAMA are proved especially condition regarding consent of wife and proof of ceremony actually giving and taking in adoption.

30. The learned Senior Counsel appearing for the appellant placed much reliance on the judgment of the Apex Court in ***L.Debi Prasad*** case cited supra, wherein it was held that when adoption is sought to be proved after passage of long time, every allowance shall be given for absence of evidence to prove the factum of adoption. The relevant observation of the Apex Court reads as follows:-

“9. There is no doubt that the burden of proving satisfactorily that he was given by his natural father and received by Gopal Das as his adoptive son is on Shyam Behari Lal. But as observed by the Judicial Committee of the Privy Council in Rajendrao Nath Holder v. Jogendro Nath Benerjee, (1870-72) 14 Moo Ind App. 67 (PC) that although the person who pleads that he had been adopted is bound to prove his title as adopted son, as a fact yet from the long period during which he had been received as an adopted son, every allowance for the absence of evidence to prove such fact was to be favourably



*entertained, and that the case was analogous to that in which the legitimacy of a person in possession had been acquiesced in for a considerable time, and afterwards impeached by a party, who had a right to question the legitimacy, where the defendant, in order to defend his status, is allowed to invoke against the claimant every presumption which arises from long recognition of his legitimacy by members of his family; that in the case of a Hindoo, long recognition as an adopted son, raised even a stronger presumption in favour of the validity of his adoption, arising from the possibility of the loss of his rights in his own family by being adopted in another family. In *Rup Narain and v. Mst. Gopal Devi*, (1909) 36 Ind App. 103 (PC), the Judicial Committee observed that in the absence of direct evidence much value has to be attached to the fact that the alleged adopted son had without controversy succeeded to his adoptive father's estate and enjoyed till his death and that documents during his life and after his death were framed upon the basis of the adoption. A Division Bench of the Orissa High Court in *Balinki Padhano and v. Gopalkrishna Padhano*, AIR 1964 Orissa 117; held that in the case of an ancient adoption evidence showing that the boy was treated for a long time as the adopted son at a time when there was no controversy is sufficient to prove the adoption although evidence of actual giving and taking is not forthcoming. We are in agreement with the views expressed in the decisions referred to above.*



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10. *In the case of all ancient transactions, it is but natural that positive oral evidence will be lacking. Passage of time gradually wipes out such evidence. Human affairs often have to be judged on the basis of probabilities. Rendering of justice will become impossible if a particular mode of proof is insisted upon under all circumstances. In judging whether an adoption pleaded has been satisfactorily proved or not, we have to bear in mind the lapse of time between the date of the alleged adoption and the date on which the concerned party is required to adduce proof. In the case of an adoption said to have taken place years before the same is questioned, the most important evidence is likely to be that the alleged adoptive, father held out the person claiming to have been adopted as his son; the latter treated the former as his father and their relations and friends treated them as father and son. There is no predetermined way of proving any fact. A fact is said to have been proved where after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. Hence if after taking an overall view of the evidence adduced in the case, we are satisfied that the adoption pleaded is true, we must necessarily proceed on the basis, in the absence of any evidence to the contrary, that it is a valid adoption as well.”*



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31. It is seen from the said judgment, the adoption had taken place during 1892. Therefore, the said case was relating to adoption that had taken place prior to coming into force of HAMA. In **M.Vanaja** case cited supra, the Apex Court after referring to judgment in **L.Debi Prasad** case has drawn a distinction between adoption that had taken place prior to coming into force of HAMA and the adoption that had taken place after the said Act. The relevant observation of the Apex Court in **M.Vanaja** case, reads as follows:-

“15. A plain reading of the above provisions would make it clear that compliance of the conditions in Chapter I of the 1956 Act is mandatory for an adoption to be treated as valid. The two important conditions as mentioned in Sections 7 and 11 of the 1956 Act are the consent of the wife before a male Hindu adopts a child and proof of the ceremony of actual giving and taking in adoption. The appellant admitted in her evidence that she does not have the proof of the ceremony of giving and taking of her in adoption. Admittedly, there is no pleading in the plaint regarding the adoption being in accordance with the provisions of the Act. That apart, the respondent who is the adoptive mother has categorically stated in her evidence that the appellant was never adopted though she was merely brought up by her and her husband. Even the grandmother of the appellant who appeared before the Court as PW 3 deposed that the appellant who lost her parents in her childhood was given to the respondent and her husband to be brought up. PW 3 also stated in her evidence that the



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appellant was not adopted by the respondent and her husband.

Therefore, the appellant had failed to prove that she has been adopted by the respondent and her husband Narasimhulu Naidu.

16. The appellant relied upon a judgment of this Court in L. Debi Prasad to submit that abundant evidence submitted by her before Court would point to the fact that she was brought up as the daughter of the respondent and her husband (Late) Narasimhulu Naidu. Such evidence can be taken into account to draw inference that she was adopted by them. The facts in L. Debi Prasad are similar to those in the instant case. In that case, Shyam Behari Lal was adopted by Gopal Das in the year 1892 when he was an infant. Shyam Behari Lal was unable to establish the actual adoption but has produced considerable documentary evidence to show that he was treated as the son of Gopal Das for a quarter of century. This Court accepted the submission of Shyam Behari Lal and held that there was sufficient evidence on record to infer a valid adoption. Though the facts are similar, we are unable to apply the law laid down in L. Debi Prasad to the instant case. L. Debi Prasad case pertains to adoption that took place in the year 1892 and we are concerned with an adoption that has taken place after the 1956 Act has come into force. Though the Appellant has produced evidence to show that she was treated as a daughter by (Late) Narasimhulu Naidu and the Defendant, she has not been able to establish her adoption. The mandate of the 1956 Act is that no adoption shall be valid unless it has been made in compliance with the conditions mentioned in



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Chapter I of the 1956 Act. The two essential conditions i.e. the consent of the wife and the actual ceremony of adoption have not been established. This Court by its judgment in Ghisalal v. Dhapubai held that the consent of the wife is mandatory for proving adoption.”

(Emphasis supplied by this Court)

32. Therefore, it is clear that in **M.Vanaja** case cited supra, after referring to **L.Debi Prasad** case, the Apex Court categorically held that in case of adoption that had taken place after HAMA, mere evidence to show particular person was treated as a child is not sufficient unless it is proved that adoption was made in compliance with the conditions mentioned in 1956 Act namely the consent of wife and actual ceremony of giving and taking in adoption. In the case on hand, the names and ancestry of the adoptive parents are not known to PW.2. He has not mentioned anything about the consent of wife of L.Lakshmanan @ Yaghava Munivar for adoption. Even her presence at the time of adoption was also not mentioned in his evidence. In the cross examination, he deposed that he has taken the plaintiff and given him to L.Lakshmanan @ Yaghava Munivar. Therefore, there is no evidence to show actual giving and taking in adoption involving natural parents. The mandatory provisions under proviso to Section 7 and Section 11 (vi) of HAMA are not complied with.



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33. It is pertinent to mention that in the original plaint filed by the plaintiff, he has not pleaded about factum of adoption. He simply mentioned him as eldest son of L.Lakshmanan @ Yaghava Munivar. In the written statement filed by the defendant, it was specifically pleaded that plaintiff was an orphan and whose parentage is not known and L.Lakshmanan @ Yaghava Munivar had taken pity on the abandoned child and helped the plaintiff in all respects by providing food, clothing, education etc. It was also stated that L.Lakshmanan @ Yaghava Munivar brought up the plaintiff, helped him to get married and provided him with properties and settled him in his life. Therefore, in the written statement, it was pleaded by the defendants, the plaintiff was brought up by L.Lakshmanan @ Yaghava Munivar as his son, but he is not a natural born son. Only thereafter, the plaintiff decided to incorporate the averments regarding factum of adoption. The failure of the plaintiff to plead factum of adoption at the first instance, creates serious doubt about the plea of adoption.

34. It is no doubt, the amendment ordered by the Court without mentioning the date from which it will take effect will go back to the date of
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plaint. But even then when a person, who is not a natural born son of another person claims himself as his heir, it is incumbent on him to plead the fact of adoption even at the first instance. The failure to plead adoption at the time of presentation of the plaint creates a serious suspicion. Further, the plea raised by the defendants in the written statement that the plaintiff was an orphan and he was brought up by L.Lakshmanan @ Yaghava Munivar is fortified by the evidence of PW.2, who is unable to give the details of natural parents of the plaintiffs. This is not a case where the evidence regarding adoption is extinguished or vanished by long passage of time. According to the plaintiff, PW.2 witnessed the adoption and he was instrumental in adopting the plaintiff. His failure to mention the details of natural parents of the plaintiff also creates serious doubt with regard to the trustworthiness of evidence of PW.2. If really he played a primary role in adopting plaintiff, he must be in a position to say the details of the parents of the plaintiff. Therefore, the essential requirement of the valid adoption under the provisions of HAMA is not satisfied.

35. In *M.Vanaja* case cited supra, the Apex Court categorically held that in case of adoption after the HAMA, the adoption shall be proved in accordance with provisions of the enactment. The documents produced by

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the plaintiff Exs.A1 to A5 and A8 will enable the plaintiff to prove that he

was treated as a son by L.Lakshmanan @ Yaghava Munivar and his wife.

But Apex Court in the above mentioned judgment categorically held that mere evidence to show that a person was treated as a child of another person is not sufficient to uphold the plea of adoption. It was categorically held the adoption as per the mandatory requirements of HAMA Act shall be proved.

36. Following the law laid down by the Apex Court in ***M.Vanaja*** case cited supra, I hold the factum of adoption is not proved in accordance with the provisions of HAMA. In view of the discussion made earlier, both the questions of law framed at the time of admission answered against the appellant and in favour of the respondents. Accordingly, the Second Appeal is dismissed.

37. The Civil Revision Petitions in C.R.P.Nos.4448 and 4451 of 2023 are filed challenging the dismissal of the applications for rejection of the plaint filed by the appellant herein seeking partition of the estate of L.Lakshmanan @ Yaghava Munivar.



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38. The applications for rejection of the plaint were filed mainly on

the ground that the suit filed by the appellant seeking declaration that he is a Legal Heir of L.Lakshmanan @ Yaghava Munivar was dismissed by the First Appellate Court and therefore, he is not a Member of the family and there is no cause of action to maintain a suit for partition. The said applications for rejection of the plaint were dismissed by the Trial Court. Aggrieved by the same, the Civil Revision Petitions were filed by the defendants therein.

39. It is seen from the typed-set of papers filed in the Civil Revision Petitions, the suit for partition has been filed by the appellant in Second Appeal in the year 2008, when the plaint was presented, the other suit filed by him seeking declaration of his legal status as Legal Heir of L.Lakshmanan @ Yaghava Munivar was pending. It is settled law, the plaint has to be rejected only based on the averments found thereon.

40. A perusal of the plaint in the partition suit filed in the typed-set of papers would indicate that there is no plea by the appellant/plaintiff that he is adopted son of L.Lakshmanan @ Yaghava Munivar, he simply described himself as eldest son of L.Lakshmanan @ Yaghava Munivar. Merely

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because, the suit filed by the plaintiff has been dismissed negating the plea of adoption subsequent to the presentation of the plaint, we cannot come to the conclusion there was no cause of action when the plaint was filed.

41. Ofcourse the dismissal of the suit filed by the plaintiff negating his plea of adoption is a ground to dismiss the suit filed by him seeking partition provided the same attained finality. It is always open to the defendants to file the subsequent judgment rendered by the Court negating the plea of adoption raised by the plaintiff. In view of the settled proposition, the petition for the rejection of the plaint shall be considered only in the light of the averments contained in the plaint and plaint documents and the documents relied on by the defendants cannot be taken into consideration, this Court is not inclined to interfere with the order passed by the Trial Court dismissing the petition for rejection of the plaint based on the subsequent development namely the dismissal of the suit filed by the plaintiff seeking his status of Legal Heir of L.Lakshmanan @ Yaghava Munivar. However, it is made clear the judgment in the second appeal can always be pressed into service by the defendants while defending the claim for partition. With this clarification, the Civil Revision Petitions are dismissed.



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42. **In Nutshell:-**

- (i) The Second Appeal is dismissed by confirming the judgment and decree passed by the First Appellate Court.
- (ii) The Civil Revision Petitions are dismissed.
- (iii) In the facts and circumstances of the case, there will be no order as to costs.
- (iv) Consequently, the connected Civil Miscellaneous Petitions are closed.

26.03.2026

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
dm



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To

- 1.The Subordinate Court,
Alandur.
- 2.The Additional District Munsif Court,
Alandur.
- 3.The Sessions Judge, Mahila Court,
Chengalpattu.
- 4.The Tahsildar
Tambaram Sanatorium,
Tambaram, Chennai-600 045.



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S.SOUNTHAR, J.

dm

Pre-delivery common judgment made in
S.A.No.900 of 2024 and
C.R.P.Nos.4448 and 4451 of 2023

26.03.2026