



2025:AHC:160782

Reserved on 20.08.2025
Delivered on 11.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 383 of 2022

Lal Bahadur And Another

.....Revisionist(s)

Versus

Bal Kalyan Samiti And Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Udai Prakash Deo Pandey
Counsel for Opposite Party(s)	:	

Court No. - 47

HON'BLE SIDDHARTH, J.

1. Heard Sri Udai Prakash Deo Pandey, learned counsel for the revisionist, the learned A.G.A. for the State and perused the trial court record.
2. The present criminal revision has been filed to quash the order dated 11.11.2021 passed by Additional Sessions Judge/Special Judge (POCSO Act) Juvenile Judge, Sonbhadra in Juvenile Criminal Appeal No. 25 of 2021 and the order dated 14.07.2021 passed by the Bal Kalyan Samiti, Sonbhadra in Case No 23 of 2021-22.
3. An application was moved by the revisionist before the Child Welfare Committee, Sonbhadra, claiming that their daughter Seema Devi married to Chhotey Lal. They have only son, Kartik was born. The father of Kartik died before his birth and his mother Seema, after giving birth to Kartik on 04.10.2013 died after 12 days and being maternal mother and grand father, Parvati Devi and Ram Chandra looking after the child Kartik. The applicants claimed that they have adopted Kartik on 28.10.2013 in presence of number of relatives and after performing the ceremony and execution of adoption deed and therefore, they are his natural guardian. They produced their notarial affidavits and also notarial affidavit of number of persons, photocopy of notarial adoption deed, aadhar card of the child, his date of birth certificate issued by school proving that his date of birth is 04.10.2014.

He is the son of Lal Bahadur.

4. The child kartik aged about 4 years was rescued along with his elder sister aged about 8 years by the District Child Protection Unit, Sonabhadra, after death of his only guardian maternal grand mother, Parvati Devi and produced before Child Welfare Committee on 21.05.2021. In the report of Social Welfare Officer, it was mentioned that the mother of the child was not married. After giving birth to the second child, she died within three days and the children were being looked after by their maternal grand father and mother. Their maternal grand father died and thereafter maternal grand mother also died on 08.05.2021 and thereafter the children became orphans. It was also found that the children were sold to the revisionist, Lal Bahadur, by their maternal grand father and grand mother for Rs.10,000/-.

5. The Juvenile Justice Board found that the applicants are alleged to have purchased Kartik and in the adoption deed he is stated to be only child of his parent and when there is his elder sister also. There is also difference in the date of birth of Kartik in the notarial adoption deed and the date of birth mentioned in the school certificate. There is no legal document proving adoption also.

6. On appeal before the Appellate Court, the Appellate Court found that the adoption deed is not registered in the presence of witnesses before the registration authority. The certificate of ceremony of adoption as per Hindu Adoption and Maintenance Act has also not been proved before the Court. The notarial adoption deed is not legal. Proceedings under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015 for declaring a child legally free for adoption is still pending. The Appellate Court further found as per CARA Act, 2016 persons who adopt are required to be registered on line on the official website.

7. Learned counsel for the revisionist has relied upon the judgement of the Bombay High Court in the case of **Vishvanath Ramji Karale Vs. Ramji Karale reported in AIR 1931 Bombay 105**, and has submitted that valid adoption can be made without an adoption deed and any status which the adopted son gets by the adoption is due to the proper ceremony being performed and not due to execution of any adoption deed. Further reliance has been made on another judgment dated 14th August, 2013 of the same

Hon'ble High Court in support of the same argument regarding case of **Mihir Ramesh Vora Vs. Union of India and another passed in Writ Petition No.1617 of 2013.**

8. Finally reliance has been placed upon the judgement of Hon'ble Calcutta High Court in the case of **Sampad Roy and another Vs. The Union of India and others, passed in WPA No.1030 of 2023 dated 06.09.2024**, wherein the Hon'ble Calcutta High Court also held that from the provisions of Hindu Adoption and Maintenance Act, 1966 for proving valid adoption the registration of adoption deed is not necessary. He has further submitted that children were living happily with the applicants and have been forcibly taken to the Child Protection Home.

9. Upon hearing the learned counsel for the revisionist and upon considering the facts of the case, this Court is of the view that as the matter in issue is whether registration of Adoption Deed is mandatory to prove the adoption of adopted child.

10. It is necessary to consider the provisions of Section 5 Section 6 and Section 11 of the Hindu 15 Adoptions and Maintenance Act 1956, which are as follows:-

Section 5 of the Hindu Adoption and Maintenance Act 1956 provides as follows:

*“ (1) No adoption shall be made after the commencement of this Act by or to a Hindu except in accordance with the provisions contained in this Chapter, and any adoption made in contravention of the said provisions shall be void.
(2) An adoption which is void shall neither create any rights in the adoptive family in favour of any person which he or she could not have acquired except by reason of the adoption, nor destroy the rights of any person in the family of his or her birth.*

Section 6 of the Hindu Adoption and Maintenance Act 1956 provides as follows:

“No adoption shall be valid unless-

(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

- (iii) the person adopted is capable of being taken in adoption; and*
- (iv) the adoption is made in compliance with the other conditions mentioned in this Chapter.*

Section 11 of the Hindu Adoption and Maintenance Act 1956 provides as follows:

“In every adoption, the following conditions must be complied with:

- (i) if any adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son’s son or son’s son’s son (whether by legitimate blood relationship or by adoption) living at the time of adoption;*
- (ii) if the adoption is of a daughter the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son’s daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption;*
- (iii) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;*
- (iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted;*
- (v) the same child may not be adopted simultaneously by two or more persons;*
- (vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up to the family of its adoption;*

Provided that the performance of datta homam, shall not be essential to the validity of an adoption.

11. In the case of **M. Gurudas and others Vs. Rasaranjan and others reported in 2006(8) SCC P-367** the Hon’ble Supreme Court observed as follows:

“To prove valid adoption, it would be necessary to bring on record that there had been an actual giving and taking ceremony. Performance of “datta homam” was imperative, subject to just exceptions. Above all, as noticed hereinbefore, the question would arise as to whether adoption of a daughter was permissible in law.

12. In **Mulla’s Principles of Hindu Law, 17th dn., P. 710**, it is stated:

“488. Ceremonies relating to adoption.-

(1) The ceremonies relating to an adoption are

(a) The physical act of giving and receiving, with intent to transfer the boy from one family into another;

(b) The data homam, that is, oblations of clarified butter to fire; and

(c) Other minor ceremonies, such as putresti jag (sacrifice for male issue).

(2) The physical act of giving and receiving is essential to validity of an adoption. As to data homam it is not settled whether its performance is essential to the validity of an adoption in every case. As to the other ceremonies, their performance is not necessary to the validity of an adoption.

(3) No religious ceremonies, not even data homam, are necessary in the case of shudras. Nor are religious ceremonies necessary amongst Jains or in the Punjab.”

13. Thus, from the provisions contained in Hindu Adoption and Maintenance Act 1956 it is clear that to prove valid adoption it is not necessary to show that there is a Registered Adoption Deed, by which adoption was made. Moreover, Section 17 of the Registration Act does not include adoption deed.

14. In the case of **Parampal Singh Vs. National Insurance Co. reported in (2013) 3 SCC- P-409 the Hon’ble Supreme Court** observed as follows:

“14. In this context, it will be worthwhile to note the requirement of registration of an adoption deed. Section 17 of the Registration Act specifically refers to the documents of which registration is compulsory. The deed of adoption is not one of the documents mentioned in Sub-Section 1 of Section 17 which mandatorily requires registration. Sub- Section 3 of

Section 17 only refers to the mandatory requirement of registration of an authorization that may be given for adopting a son executed after 01.01.1872 if such authorization was not conferred by a will. Dealing with the said provision relating to authorization it has been held in the decision in Vishwanath Ramji Karole Vs. Rohibai Raji Karole that a deed of adoption as distinguished from authority to adopt does not require registration.”

15. It is absolutely clear that registration of adoption deed was not required as wrongly as held by the Appellate Court. However, the burden of proving the requirements of Sections 6 and 11 of the Hindu Adoption and Maintenance Act were required to be discharged by the applicants before the Court. They were also required to prove the performance of datta homam which they failed to prove. Therefore, the adoption of the child in dispute by the applicant was not proved before the court below in accordance with law.

16. There is also non compliance of the provisions of CARA Act, 2016 found by the Appellate Court on the part of the revisionist.

17. In view of the above consideration this court does not finds any substantial illegality in the judgements and orders impugned in this revisions.

18. The revision lacks merit and is accordingly dismissed.

19. Let the trial court record be returned within a period of one week.

(Siddharth,J.)

September 11, 2025

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