

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No. 163 of 2025
Reserved on: 23.09.2026
Decided on: 01.10.2026

Simrat Randhawa & others	...Petitioners.
Versus	
Poonam Dhawan & others	...Respondents.

Coram:
The Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?¹ Yes

For the petitioners : Ms. Chehak Bhalla, Advocate.
For the respondents : Mr. Neeraj Gupta, Senior Advocate
with Mr. Pranjali Munjal, Advocate,
for respondent No.1.

Respondents No. 2 and 3 ex-parte.

Romesh Verma, Judge

The instant petition arises out of judgment passed by the learned District Judge, Solan, dated 31.07.2025, whereby the appeal filed by the plaintiff/respondent, namely, Poonam Dhawan, was allowed and the order passed by the learned Senior Civil Judge, Kasauli, District Solan, H.P. dated 27.07.2023 was set-aside, whereby application filed by the plaintiff/respondent under Order 39 Rules 1 & 2 of the Code of Civil Procedure (CPC) was dismissed.

2. The facts, as emerge in the present case, are that the plaintiff/respondent filed a suit for injunction under Sections 38 and 39

¹ ***Whether reporters of Local Papers may be allowed to see the judgment? Yes***

of the Specific Relief Act, which was subsequently amended to a suit for declaration and injunction under Sections 34, 38, and 39 of the Specific Relief Act. The said suit was filed with a prayer for declaring the plaintiff to be co-owner in possession of the suit property to the extent of the share of Smt. Surinder Kaur and in the manner as recited in the registered Will executed by Smt. Surinder Kaur during her lifetime, duly registered in the office of Sub-Registrar, Patiala vide Document No. 261 dated 06.06.2014.

3. As per the case set up by the plaintiff, the property comprised in Khata/Khatauni No. 44/58, Khasra No. 351, measuring 00-5020 hectare, Hadbast No. 717, situated in Mohal Khadoli, Tehsil Kasauli, District Solan, HP is joint property which has not been partitioned amongst the co-sharers in accordance with law.

4. As per plaintiff, the defendants have no right, title, or interest to change the nature of the best and specific portion of the suit land by raising construction thereon or on any other specific portion of the joint land until the joint suit land is duly partitioned by metes and bounds.

5. It has been stated that Smt. Surinder Kaur and Shri Rajeev Inder Singh used to share the relationship of mother and son. On 28.12.2011, Shri Rajeev Inder Singh passed away, leaving behind defendants No. 1 to 4 and Smt. Surinder Kaur as his natural successors and first class legal heirs. Smt. Surinder Kaur also passed

away on 10.05.2022, leaving behind a registered Will qua her movable and immovable properties, registered in the office of Sub-Registrar, Patiala dated 06.06.2014. According to the Will, Smt. Surinder Kaur bequeathed her entire share in the suit land exclusively in favour of the plaintiff. The mutation for the same was still pending and yet to be affected in the revenue records. The said fact came to the knowledge of the plaintiff when she approached the Sub-Registrar/Tehsildar, Kasauli for getting the mutation attested and sanctioned in her favour on the basis of the Will dated 06.06.2014.

6. Therefore, it is the case of the plaintiff that Smt. Surinder Kaur was the biological mother of the plaintiff, who, in her sound state of mind, executed a Will dated 06.06.2014 vide Document No. 261 in favour of the plaintiff qua her share in the suit land. On the strength of the Will, she became co-owner in possession of the suit land qua the entire share of Smt. Surinder Kaur. Therefore, it was prayed that decree for declaration be passed in favour of the plaintiff and against the defendants declaring the plaintiff to be co-owner in possession of the suit property to the extent of the share of Smt. Surinder Kaur on the basis of the registered Will executed during her lifetime on 06.06.2014.

7. The suit was resisted and contested by the defendants/petitioners by raising preliminary objections with respect to maintainability, estoppel, locus standi, cause of action, etc. On merits,

it was stated that the suit is not maintainable in view of the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act. As per the defence set up by the defendants, without prejudice and without admitting the lawfulness, validity, and execution of the Will dated 06.06.2014, there cannot be any transfer with respect to the land by way of a Will in favour of a non-agriculturist. The plaintiff is a non-agriculturist, therefore, there cannot be any transfer or succession in favour of the plaintiff on the basis of the Will.

8. As per the defendants, the plaintiff suppressed material facts and did not disclose that she was adopted through a registered adoption deed by Shri Har Mohinder Singh vide Vasika No. 293, registered on 07.02.1972 in the office of Sub-Registrar, Patiala. On the basis of the registered adoption deed, Shri Har Mohinder Singh filed Suit No. 25 of 23.01.1973, decided on 05.02.1973, against Shri Sikander Singh (natural father), seeking a declaration that Har Mohinder Singh is the father of the plaintiff, Smt. Poonam Dhawan, by virtue of the adoption deed dated 07.02.1972. The said suit was decreed and the plaintiff was declared to be the daughter of Har Mohinder Singh, who was the real brother of Smt. Surinder Kaur.

9. It was also stated that Smt. Selina Singh, proforma defendant, sister of the plaintiff, was also adopted by Shri Saranjit Singh vide Vasika No. 329 registered on 03.03.1972 in the office of Sub-Registrar, Patiala. Shri Saranjit Singh filed Civil Suit No. 23 of

23.01.1973, decided on 05.02.1973, praying for a declaration that the proforma defendant is his lawfully adopted daughter. The learned Court passed a decree declaring Smt. Selina Singh to be the daughter of Saranjit Singh having been lawfully adopted vide adoption deed dated 03.03.1972. After the said adoptions, Smt. Poonam Dhawan (plaintiff) and Smt. Selina Singh (proforma defendant) acquired title to other properties as daughters of Shri Har Mohinder Singh and Shri Saranjit Singh, respectively.

10. As per the defendants, the legality and enforceability of the Will dated 06.06.2014 and the dispute with respect to the succession of Smt. Surinder Kaur is already instituted before the Court of learned Civil Judge (Junior Division), Patiala in Civil Suit No. 1043 of 2014. Therefore, it was prayed that the succession to the estate of Smt. Surinder Kaur with respect to the suit property comprised in Khata/Khatauni No. 44/58, Khasra No. 351, measuring 5020 sq. meters, situated in Mohal Khadoli, Tehsil Kasauli, District Solan cannot devolve upon the plaintiff in view of the specific bar under Section 118 of the H.P. Tenancy and Land Reforms Act.

11. The execution of the Will by late Smt. Surinder Kaur in favour of the plaintiff was categorically denied in the written statement. It was stated that the alleged Will was prepared by the plaintiff with the aid of Shri Gurdeep Singh and Nambardar Shri Prince Singh. As per the case of the defendants, the Will is shrouded with suspicious

circumstances and is not binding on the right, title, and interest of the defendants. Since the plaintiff is a non-agriculturist, there cannot be any transfer or succession in her favour on the basis of a Will. The defendants prayed for dismissal of the suit.

12. The plaintiff, along with the plaint, filed an application under Order 39 Rules 1 & 2 CPC praying for an interim injunction against the defendants. The application was resisted by the defendants, denying all the allegations. The learned Senior Civil Judge, Kasauli, District Solan, vide order dated 27.07.2023, dismissed the application filed by the plaintiff.

13. Feeling aggrieved, the plaintiff preferred an appeal before the learned District Judge, Solan, HP on 24.08.2023. The learned First Appellate Court, vide impugned judgment dated 31.07.2025, accepted the appeal and the application under Order 39 Rules 1 & 2 CPC was allowed by restraining the defendants personally as well as through their agents from changing the nature of the suit land by constructing over the main access or any other best and specific portion of the joint suit land adjoining the road until the disposal of the suit or partition of the suit property, whichever is earlier.

14. Feeling dissatisfied, the defendants/petitioners have approached this Court by instituting the present petition under Section 115 of the Civil Procedure Code.

15. Ms. Chehak Bhalla, learned counsel for the petitioners, contended that the impugned judgment passed by the learned District Judge is erroneous and liable to be set aside. She submits that the learned First Appellate Court erred in granting the injunction when the plaintiff has failed to satisfy the triplicate test of prima facie case, balance of convenience, and irreparable loss. She submits that after accepting the present petition, the application under Order 39 Rules 1 & 2 CPC deserves to be dismissed.

16. On the other hand, Mr. Neeraj Gupta, learned Senior Counsel assisted by Mr. Pranjal Munjal, Advocate, for respondent No.1, defended the impugned judgment. He submits that this Court, will not interfere with the well-reasoned judgment of the learned First Appellate Court as the same has been passed after appreciating the entire material placed on record and prayed for dismissal of the petition.

17. I have heard learned counsel for the parties and gone through the case file.

18. The plaintiff/respondent has filed a suit for declaration and injunction under Sections 34, 38, and 39 of the Specific Relief Act seeking declaration that the plaintiff be declared as co-owner in possession of the suit property to the extent of share of Smt. Surinder Kaur on the basis of the registered Will executed by her vide Document No. 261, registered in the office of Sub-Registrar, Patiala,

dated 06.06.2014. A case has been projected by the plaintiff that Smt. Surinder Kaur was the biological mother of the plaintiff, and in a fit state of mind, and in a healthy and conscious state of mind, she executed a Will on 06.06.2014 in favour of the plaintiff, which stands duly registered in the office of Sub-Registrar, Patiala, and on the strength of the same, plaintiff has become co-owner in possession qua the entire share of Surinder Kaur.

19. On the other hand, the said suit has been contested on the ground of maintainability to the extent that in view of the provision of Section 118 of the H.P. Tenancy and Land Reforms Act, no transfer of the land can take place by way of Will in favour of a non-agriculturist. As per defendants, the present plaintiff was adopted by Shri Har Mohinder Singh and adoption deed through a registered Vasika No. 293 dated 07.02.1972 was registered in the office of Sub-Registrar, Patiala. A civil suit came to be filed by Shri Har Mohinder Singh bearing Suit No. 25 of 23.01.1973, decided on 05.02.1973, against Sikander Singh, who was the natural father of the plaintiff, seeking declaration that Har Mohinder is the father of plaintiff, Smt. Poonam Dhawan, by virtue of adoption deed dated 07.02.1972. The said suit for declaration came to be decreed, and plaintiff was declared to be the daughter of Shri Har Mohinder Singh.

20. It is contended by Ms. Chehak Bhalla, learned counsel for the petitioners/defendants, that her first ground to challenge the

impugned judgment is that the plaintiff has not approached the Court with clean hands, and she has suppressed material facts from the Court. It has been contended that the plaintiff intentionally and wilfully withheld the said facts from the Court below in order to avail undue and unfair advantage.

21. It is contended that as per the dictum of law laid down by the Hon'ble Apex Court, the grant of injunction is a discretionary relief, a person who does not approach the Court with clean hands is not entitled to discretionary relief. She submits that the plaintiff has failed to disclose the material fact which goes to the root of the case, as by virtue of the adoption, the relation of the plaintiff got severed from the family of Smt. Surinder Kaur, and she was transplanted in the family of Shri Har Mohinder Singh way back in the year 1972.

22. It is well settled principles of law that injunction is an equitable relief, and the party seeking the same must approach the Court with clean hands. If the Court notices that the plaintiff has approached it with unclean hands and by suppressing material facts and documents, the Court can straightaway refuse to grant temporary injunction in favour of the plaintiff without even looking into the merits of the case. The principle is that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance, and in any case, such person is not entitled to any relief. It is the obligation of a litigant to disclose all the facts of the case and

leave the decision-making to the Court. It is the duty of the litigant to come upfront and clean with all material facts, and then leave it to the Courts to determine whether or not a particular fact is relevant for arriving at the decision. It is not for a litigant to decide which fact is material for adjudicating a case.

23. Learned counsel for the petitioners has cited the judgment as passed by the Bombay High Court in **CWP No. 17223 of 2025**, titled **J.B.Metal Industries Pvt. Limited vs. Prashant Gopal Sharma & others, decided on 13.03.2026**. The relevant extract of the said judgment is as follows:

19) Injunction is an equitable relief and party seeking the same must approach the Court with clean hands. If the court notices that the Plaintiff has approached it with unclean hands and by suppressing the material facts and documents, the Court can straightaway refuse to grant temporary injunction in favour of the Plaintiff without even looking into the merits of the case. Law in this regard is well settled by several judgments of the Apex Court. Reference in this regard can be made to the judgments in Ramjas Foundation and another V/s. Union of India and others and Prestige Lights Limited V/s. State Bank of India 5. Plaintiffs cannot indulge in suppression of material facts and then seek to explain that what is suppressed is not material. In Bhaskar Laxman Jadhav and 4 (2010) 14 SCC 38 5 (2007) 8 SCC 449 13 March 2026 Megha 910_wp_17223_2025_fc.odt Others V/s.Karamveer Kakasaheb Wagh Education Society and Others 6 the Apex Court has held that it is not for a litigant to decide what factor is material for adjudication of a case and what is not. It is an obligation of a litigant to disclose all facts of a case and leave the decision making to the Court. Recently, this Court had an occasion to deal with the effect of suppression on Plaintiff's

entitlement to temporary injunction in *Elder Neutraceuticals Private Limited (supra)*, in which this Court has surveyed various decisions and has held in paragraph 42 to 46, 51, 52 and 53 as under:

EFFECT OF SUPPRESSION

42) It is well settled position that injunction is an equitable relief and a party seeking the same must approach the Court with clean hands. The relief of temporary injunction can be denied to a party only on the ground of he not approaching the Court with clean hands. An instructive judgment on the issue is *Abdul Cadur Allibhoy (supra)* in which the Full Bench of this Court has emphasized the requirement of Plaintiff approaching the Court with clean hands. In relation to use of trademark, the Court observed that if the Plaintiff himself is found selling goods of another or if his trademark gives a false description of the article, he violates the rule on which he seeks relief against the Defendant.

43) In *Ramjas Foundation (supra)*, the Apex Court has held that it is the duty of the plaintiff to state the whole case fully and fairly before the Court. It has held that when Defendant applies for vacation of injunction on the ground that material fact has been suppressed or has not been properly brought forward, the Plaintiff must be told that the Court would not decide as the faith of the Court is broken and the injunction must be vacated. It is held in paras-21, 22, 23 and 24 as under:

21. The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under [Articles 32, 226 and 136](#) of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty bound to protect itself from unscrupulous litigants 6 (2013) 11 SCC 531 13 March 2026 Megha 910_wp_17223_2025_fc.odt who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.

22. In *Dalglish v. Jarvie* [(1850) 2 Mac & G 231 : 42 ER 89] , Mac & G at p. 238, Lord Langdale and Rolfe, B. observed: (ER p. 89) "It is the duty of a party asking for an injunction to bring under the notice of the court all facts

material to the determination of his right to that injunction; and it is no excuse for him to say that he was not aware of the importance of any fact which he has omitted to bring forward."

23. In *Castelli v. Cook* [(1849) 7 Hare 89: 68 ER 36] , Hare at p. 94, Wigram, V.C. stated the rule in the following words: (ER p. 38) "... a plaintiff applying ex parte comes ... under a contract with the court that he will state the whole case fully and fairly to the court. If he fails to do that, and the court finds, when the other party applies to dissolve the injunction, that any material fact has been suppressed or not properly brought forward, the plaintiff is told that the court will not decide on the merits, and that, as he has broken faith with the court, the injunction must go."

46) In *Bhaskar Laxman Jadhav* (supra), the Apex Court has held that it is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of the case and leave the decision making to the Court. It is held that it is a duty of the litigant to come upfront and clean with all material facts and then leave it to the Court to determine whether or not a particular fact is relevant for arriving at the decision. It has held in paras-44 and 47 of the judgment as under :-

44. It is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of a case and leave the decision-making to the court. True, there is a mention of the order dated 2-5-2003 in the order dated 24-7-2006 passed by the JCC, but that is not enough disclosure. The petitioners have not clearly disclosed the facts and circumstances in which the order dated 2-5-2003 was passed or that it has attained finality.

47. A mere reference to the order dated 2-5-2003, en passant, in the order dated 24-7-2006 does not serve the requirement of disclosure. It is not for the court to look into every word of the pleadings, documents and annexures to fish out a fact. It is for the litigant to come upfront and clean with all material facts and then, on the basis of the submissions made by the learned counsel, leave it to the court to determine whether or not a particular fact is relevant for arriving at a decision. Unfortunately, the petitioners have not done this and must suffer the consequence thereof. (emphasis added)

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51) The law thus is fairly well settled that Plaintiff has a duty to make full disclosure of all material facts and it is not for the Plaintiff to decide which fact is material and which is not. Plaintiff cannot first indulge in suppression of facts and upon being caught, raise a defense that what is suppressed is not material. Mr. Tamboly has relied upon judgment of this Court in *International Association of Lions Club* (supra) in support of his contention that to arrive at a case of suppression of facts which disentitles party to any relief, the facts suppressed must be material to the outcome of the dispute. In case before this Court, the Defendants therein had accused Plaintiff of non-disclosure of facts of institution of civil suit before the District Court of Jabalpur and it was contended that Plaintiff was not entitled to discretionary relief of injunction on account of suppression. This Court considered whether Plaintiffs were obliged to disclose the fact of institution of the said suit filed in representative capacity by another person under [Section 120](#) of the Trade and Merchandise Marks Act, 1950, which provision envisaged for a direction against a person who threatens an action or proceeding for infringement of trademark. This Court referred to various judgments and held that the scope of such suit was very limited where only justifiability of threats given by the Defendant could be adjudicated therein. This Court further held that any other finding recorded in such a Suit becomes irrelevant in the context of limited scope of enquiry. It is in the light of these peculiar facts that this Court held that it was not necessary for the Plaintiff therein to disclose filing of the suit before Jabalpur Court. Therefore, the judgment in *International Association of Lions Club* is clearly distinguishable and would have no application to the facts of the present case, where there is suppression of material necessary for deciding Plaintiff's entitlement to temporary injunction.

"13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken [*R. v. General Comms.* for the purposes of the *Income Tax Act* for the District of Kensington, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] ...

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37. Law is well settled that the fact suppressed must be material in the sense that it would have an effect on the merits of the case. The concept of suppression or non-disclosure of facts transcends mere concealment; it necessitates the deliberate withholding of material facts--those of such critical import that their absence would render any decision unjust. Material facts, in this context, refer to those facts that possess the potential to significantly influence the decision-making process or alter its trajectory. This principle is not intended to arm one party with a weapon of technicality over its adversary but rather serves as a crucial safeguard against the abuse of the judicial process. (emphasis added)"

24. Learned counsel for the petitioners has drawn the attention of this Court to the pleadings which have been placed on record by the respective parties. Initially, plaintiff filed a simpliciter suit for permanent prohibitory injunction and mandatory injunction. In the said suit, there is no averment with respect to the adoption of the plaintiff by Shri Har Mohinder Singh. In the written statement, the defendants have taken a specific defence that plaintiff was adopted by Shri Har Mohinder Singh by means of registered adoption deed in the year 1972, therefore, being a non-agriculturist, no transfer of land is permissible by way of Will executed in her favour as the same is hit by the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act.

25. Learned counsel for the petitioners have referred to the amended plaint which was filed by the plaintiff/respondent before the learned Trial Court. After amending the suit, suit for declaration and injunction has been filed, but again in the said suit, there is not a single averment with respect to the adoption.

26. This Court is in agreement with the contention as raised by the learned counsel for the petitioners that since the plaintiff was adopted by Shri Har Mohinder Singh in the year 1972 at Patiala, the said fact goes to the root of the case, and by suppressing and concealing the said fact, the plaintiff is not entitled to any discretionary relief of injunction.

27. The case file reveals that by registered adoption, plaintiff was adopted by Shri Har Mohinder Singh in the year 1972 through Vasika No. 293 registered on 07.02.1972 in the office of Sub-Registrar, Patiala. Not only this, Shri Har Mohinder Singh had also filed a suit for declaration in the Court of learned Senior Sub-Judge, Patiala, which came to be decreed with a decree for declaration that plaintiff is the daughter of Shri Har Mohinder Singh, in terms of adoption deed dated 07.02.1972, and is entitled to the share of land mentioned in the heading of the plaint. The said documents establish that on the strength of the registered adoption deed and the decree which was passed on 05.02.1973, it was declared that the plaintiff is the adopted daughter of Shri Har Mohinder Singh.

28. Section 12 of the Hindu Adoptions and Maintenance Act, 1956, which reads as follows:

*"12. Effects of adoption.— An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family:
Provided that—*

(a)the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth;

(b)any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth;

(c)the adopted child shall not divest any person of any estate which vested in him or her before the adoption."

29. As per the provisions of Section 12, the adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption, and from such date, all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family. After the valid adoption of the present plaintiff, she has been transplanted in the house of her adoptive parents, and she derives all the right, title, and interest in the family of her adoptive parents. The adoption has taken place at Patiala, therefore, as rightly pointed out by the learned counsel for the petitioners, Section 118 of the H.P. Tenancy and Land Reforms Act comes into picture. The provisions of Section 118 read as follows:

"118. Transfer of land to non-agriculturists barred.-

[(1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this chapter, no transfer of land (including transfer by a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.]

30. As per the said provision, no transfer of the land by way of sale, gift, **Will**, exchange, lease, mortgage with possession shall be valid in favour of a person who is not an agriculturist. As pointed out by the learned counsel for the petitioners, after severance of ties of the plaintiff in the family of Smt. Surinder Kaur, she has been transplanted in the family of Sh. Har Mohinder Singh at Haryana. Therefore, being a non-agriculturist, no land can be transferred in her name by execution of the Will, which is contrary to the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act. The provisions of Section 12 of the Hindu Adoptions and Maintenance Act in conjunction with Section 118 of the H.P. Tenancy and Land Reforms Act clearly demonstrate that after her adoption at Patiala, the plaintiff cannot derive right, title, or interest over the suit property, including by way of Will in any manner.

31. The learned counsel for the petitioners has relied upon the provisions of Section 12 of the Hindu Adoptions and Maintenance Act and has cited a judgment of the Hon'ble Apex Court reported in case titled **Basavarajappa vs. Gurubasamma and others, (2005) 12 SCC 290**.

32. As per the said judgment passed by the Hon'ble Apex Court, after a valid adoption, the child altogether ceases to have any ties with the family of his birth. Correspondingly, these ties are automatically replaced by those created by the adoption in the

adoptive family. The adopted child becomes a coparcener in the joint Hindu family property. The Hon'ble Apex Court has held as follows:

"We may straightaway say that the High Court as well as the first appellate court erred in holding that the adoption of the appellant did not have the effect of divesting Narasappa of the properties to the extent of half share. The properties held by Narasappa were admittedly ancestral. On adoption, the adoptee gets transplanted in the family in which he is adopted with the same rights as that of a natural-born son. The legal effect of giving a child in adoption is to transfer the child from the family of his birth to the family of his adoption. He severs all his ties with the family from which he is taken in adoption. Interpreting Section 12 and sub-section (vi) of Section 11, this Court in Smt. Sitabai & Anr. v. Ramchandra [(1969) 2 SCC 544] held that the adoptee ceases to have any ties with the family of his birth. Correspondingly, these ties are automatically replaced by those created by the adoption in the adopted family. The adopted child becomes a coparcener in the Joint Hindu Family property.

It was observed:

"5. It is clear on a reading of the main part of Section 12 and sub-section (vi) of Section 11 that the effect of adoption under the Act is that it brings about severance of all ties of the child given in adoption in the family of his or her birth. The child altogether ceases to have any ties with the family of his birth. Correspondingly, these ties are automatically replaced by those created by the adoption in the adoptive family. The legal effect of giving the child in adoption must therefore be to transfer the child from the family of its birth to the family of the adoption. Section 14(1) results in the child adopted by either of the spouses becoming the child of both the spouses; but in the case of there being two living wives, the child is the child of the senior-most wife in marriage, the junior wife becoming the 'step-mother' of the adopted child. Even when a widower or a bachelor adopts a child, and he gets married subsequent to the adoption, his wife becomes the step-mother of the adopted child. When a widow or an unmarried woman adopts a child, any husband she marries subsequent to adoption becomes the step-father of the adopted child. The scheme of Sections 11 and 12, therefore, is that in the case of adoption by a widow the child becomes absorbed in the adoptive family to which the widow belonged. In other words the child adopted is tied with relationship of sonship with the deceased husband of the widow. The other collateral relations of the husband would be connected with the child through that deceased husband of the widow. For instance, the husband's brother would necessarily be the uncle of the adopted child.

The adoptive father's (and mother's) brother would necessarily be the uncle of the adopted son, and in this way, the adopted son would become a member of the widow's family, with the ties of relationship with the deceased husband of the widow as his adoptive father. It is true that Section 14 of the Act does not expressly state that the child adopted by the widow becomes the adopted son of the deceased husband of the widow. But it is a necessary implication of Sections 12 and 14 of the Act that a son adopted by the widow becomes a son not only of the widow but also of the deceased husband. It is for this reason that we find in sub-section (4) of Section 14 a provision that where a widow adopts a child and subsequently marries, the father becomes the 'step-father' of the adopted child. The result of the interpretation of Sections 11 and 12 therefore is that when either of the spouses adopts a child, all the ties of the child in the family of his or her birth are completely severed and these are replaced by those created by the adoption in the adoptive family. In other words the child adopted by either of the spouses becomes the child of both the spouses. This view is borne out by the decision of the Bombay High Court in Ankush Narayan v. Janabai Rama Sawat [67 BLR 864]. It follows that in the present case Plaintiff No. 2 Suresh Chandra, when he was adopted by Bhagirath's widow, became the adopted son of both the widow and her deceased husband Bhagirath and, therefore, became a coparcener with Dulichand in the joint family properties. After the death of Dulichand, Plaintiff No. 2 became the sole surviving coparcener and was entitled to the possession of all joint family properties. The Additional District Judge was, therefore, right in granting a decree in favour of Plaintiff No. 2 declaring his title to the agricultural lands in the village Palasia and half share of the house situated in the village."

(emphasis supplied)

33. In the case in hand, on the basis of the material placed on record, it is apparent on the face of the record that the plaintiff was adopted by Shri Har Mohinder Singh, therefore, she ceases to have any right to the property of Smt. Surinder Kaur. As far as the execution of the Will is concerned, the same is hit by Section 118 of the H.P. Tenancy and Land Reforms Act, as the plaintiff is a non-agriculturist and she is residing in the State of Haryana.

34. The learned First Appellate Court has wrongly come to the conclusion that since the plaintiff has based her title on the basis of the Will, therefore, she has stepped into the shoes of her mother, and on the basis of the same, she is entitled to temporary injunction. This Court is not in agreement with the finding as returned by the learned First Appellate Court, as the same is contrary to the provisions of Section 12 of the Hindu Adoptions and Maintenance Act and Section 118 of the H.P. Tenancy and Land Reforms Act. Being a non-agriculturist, no transfer of land is valid on the basis of Will executed in favour of the plaintiff, which is hit by the provisions of Section 118 of the H.P. Tenancy and Land Reforms Act. The learned First Appellate Court, only on the strength of the Will, reversed the well-reasoned findings rendered by the learned Trial Court.

35. Though this Court is not in agreement with the findings as returned by the learned Trial Court, whereby findings were returned that the Will is shrouded with suspicious circumstances. The said observations could not have been passed by the learned Trial Court while deciding the application under Order 39 Rules 1 & 2 CPC, otherwise, the order which was passed by the learned Trial Court is legal and valid, in the eyes of law, whereas the judgment as passed by the learned District Judge is not sustainable and it is liable to be quashed and set aside.

36. In order to get the relief of injunction, a party is required to pass the triplicate test of prima facie case, balance of convenience, and irreparable loss. In the present case, it is not the plaintiff/respondent rather petitioners/defendants who are having prima facie case in their favour. On the other hand, as observed earlier, once the plaintiff has been adopted by Shri Har Mohinder Singh and she is residing in the State of Haryana, therefore, in view of the provisions of Section 12 of the Hindu Adoptions and Maintenance Act and Section 118 of the H.P. Tenancy and Land Reforms Act, for the purpose of grant of injunction, no relief can be granted to her. Being a resident of another State and being a non-agriculturist, the plaintiff cannot injunct or restrain the defendants from using the fruit of the property in perpetuity. The plaintiff has failed to pass the triplicate test which is required for passing an order of injunction. Therefore, this Court is of the considered opinion that the impugned judgment passed by the learned District Judge requires interference and is liable to be quashed and set aside, and the findings as returned by the learned Trial Court deserve to be accepted, save and except, the findings whereby it has been held by the learned Trial Court that the Will is shrouded with suspicious circumstances, as the said question has to be determined in the main trial after leading of the evidence by the respective parties.

37. As per the exposition of law as laid down by the Hon'ble Apex Court, the Appellate Court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion, except where the discretion has been shown to have been exercised arbitrarily, capriciously, or perversely, or where the Court had ignored the well-settled principles of law regulating grant or refusal of interlocutory injunctions. The Appellate Court will not reassess the material and seek to reach a conclusion different from the one reached by the Court below. If the discretion has been exercised by the trial court reasonably and in a judicial manner, the fact that the Appellate Court would have taken a different view may not justify interference with the trial Court's exercise of discretion.

38. The Court of Appeal should not interfere with the discretion of a judge acting within his jurisdiction unless the Court is clearly satisfied that he was wrong. While adjudicating upon the discretion exercised by the trial court, the Appellate Court is obliged to consider the case put forward by the appellant in favour of its arguments that the trial court exercised its discretion arbitrarily or perversely. The said principle of law has been laid down by the Hon'ble Apex Court in case titled ***Ramakant Ambalal Choksi vs. Harish Ambalal Choksi and others***, (2024) 11 SCC 351, wherein it was observed as under:-

21. With regards to (a), this Court held thus:

“14...In such appeals, the appellate court will not interfere with the exercise of discretion of the court of the first instance and substitute its own discretion, except where the discretion has been shown to have been exercised arbitrarily or capriciously or perversely, or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions ... the appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below ... If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion.”

22. This Court, while arriving at the above findings, relied on its earlier judgment in [Printers \(Mysore\) v Pothan Joseph](#) reported in (1960) SCC Online SC 62 where it was held thus:

“[...] as has been observed by Viscount Simon LC in Charles Osenton & Co v Johnston – the law as to reversal by a court of appeal of an order made by a judge below in the exercise of his/her discretion is well established, and any difficulty that arises is due only to the application of well-settled principles in an individual case.”

29. This Court in [Shyam Sel & Power Ltd. v. Shyam Steel Industries Ltd.](#) reported in (2023) 1 SCC 634 observed that the hierarchy of the trial court and the appellate court exists so that the trial court exercises its discretion upon the settled principles of law. An appellate court, after the findings of the trial court are recorded, has an advantage of appreciating the view taken by the trial judge and examining the correctness or otherwise thereof within the limited area available. It further observed that if the appellate court itself decides the matters required to be decided by the trial court, there would be no necessity to have the hierarchy of courts.

31. The appellate court in an appeal from an interlocutory order granting or declining to grant interim injunction is only required to adjudicate the validity of such order applying the well settled principles governing the scope of jurisdiction of appellate court under [Order 43 of the CPC](#) which have been reiterated in various other decisions of this Court. The appellate court should not assume unlimited jurisdiction and should guide its powers within the contours [laid down in the Wander](#) (supra) case.”

39. Similarly, the Hon'ble Apex Court in case titled ***Wander Ltd. and another vs. Antox India Pvt. Ltd., 1990 (Supp) SCC 727*** has held that the Appellate Court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion, except where the discretion has been shown to have been exercised arbitrarily, perversely, or where the court had ignored the well-settled

principles of law regulating grant or refusal of interlocutory injunctions.

The Apex Court has held as follows:

"13. On a consideration of the matter, we are afraid, the appellate bench fell into error on two important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocination as to the quality of Antox's alleged user of the trademark on which the passing-off action is founded. We shall deal with these two separately.

*14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in *_Printers (Mysore) Private Ltd. v. Pothan Joseph_*¹: (SCR 721)*

*"... These principles are well established, but as has been observed by Viscount Simon in *_Charles Osenton & Co. v. Jhanaton_*² '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."*

40. In the considered opinion of this Court, the learned First Appellate Court has not exercised the jurisdiction in a valid manner and has passed the judgment contrary to the exposition of law as laid down by the Hon'ble Apex Court in the cases supra and it deserves to be quashed and set-aside.

41. In view of the above observations, the present petition is allowed, and the application filed by the respondent-plaintiff for the grant of injunction under Order 39 Rules 1 & 2 CPC is ordered to be rejected.

42. Needless to say, observations as made in the proceedings are meant only for the adjudication of the present petition and the same shall have no bearing on the merits of the main case.

Pending miscellaneous application(s), if any, shall also disposed of.

(Romesh Verma)
Judge

October 01, 2026. (Nisha)