

CWP-13290-2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-13290-2015

Date of Decision: 12.10.2015

Mukhtiar Singh

... Petitioner(s)

Versus

Union of India and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Deepak Arora, Advocate for
the petitioner.

Mr. Indresh Goel, Advocate,
for the respondents.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent Nos.2 and 3 to entertain the passport application and to issue passport to Harkirat Singh, who was adopted by the petitioner vide registered adoption deed dated 29.04.2008.

In pursuance of notice of motion, respondent No.3 has filed reply with the averments that petitioner and his wife have adopted their grand-son and the said adoption is not legally permissible under the Hindu Adoptions and Maintenance Act, 1956 (in short, '1956 Act'),

CWP-13290-2015

therefore, passport could not be issued to Harkirat Singh.

I have heard learned counsel for the parties and perused the record.

Section 16 of the 1956 Act reads as under:

“16. Presumption as to registered documents relating to adoption- Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”

Admittedly, Harkirat Singh has been adopted by the petitioner vide registered adoption deed dated 29.04.2008. The adoptee is minor and there is no challenge to the adoption deed. As per Section 16 of the 1956 Act, presumption as to registered adoption deed is raised in favour of valid adoption unless and until it is disproved before the competent court. The objection raised by the respondents apparently appears to be frivolous and without any justification. Sections 10, 11, 12 and 15 of the 1956 Act deal with the various terms i.e. 'Persons who may be adopted', 'Other conditions for a valid adoption', 'Effect of adoptions' and 'Valid adoption not to be cancelled', respectively. Section 15 of the 1956 Act clearly provides that once the adoption is registered, the same cannot be cancelled in any circumstances.

In these circumstances, objection raised by the respondents

CWP-13290-2015

is not sustainable in the eyes of law being frivolous one. Resultantly, respondents are directed to entertain the passport application and issue passport to minor-Harkirat Singh, being adopted son of the petitioner, if otherwise found eligible in accordance with law. However, for raising frivolous objection, the respondents are burdened with costs of ₹2,500/- which shall be deposited with the State Legal Services Authority, Punjab within a period of three months from the date of receipt of this order.

Disposed of accordingly.

12.10.2015
parveen kumar

(Paramjeet Singh)
Judge