

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

Regular Second Appeal No.4388 of 2011 (O&M)

Date of decision: 13.7.2015

Ved Parkash

... Appellant

Versus

Sudesh Rani and others

... Respondents

II.

Regular Second Appeal No.704 of 2012 (O&M)

V.Mukesh

... Appellant

Versus

Sudesh Rani and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Satish Goel, Advocate,
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

This order will dispose of two appeals, i.e., RSA No.4388 of 2011 and RSA No.704 of 2012 as common questions of law and fact are involved in both the appeals. The facts are referred from RSA No.4388 of 2011 for convenience.

The only argument raised is that the adoption deed is a registered instrument and is thus un rebuttable evidence of adoption. The day when the adoption deed was registered a testamentary will was also made by the testator in the name of the minor son of the beneficiary family.

Both the courts below have disbelieved the will and the adoption deed executed by late Madan Lal in favour of V. Mukesh son of Ved Parkash. It is not disputed that Madan Lal and Ved Parkash are not closely related. Late Madan Lal was a painter in the Indian Army. He died unmarried and issueless. His parents had predeceased him. Therefore, Madan Lal was left with no Class-I heir to succeed to his estate. His Class-II heirs were his brothers and sisters and if natural succession opened, they would be entitled to succeed to the estate left behind by late Madan Lal. It is, in these circumstances, that the will and the adoption deed which tried to divert natural succession, propounded by Ved Prakash etc. have been disbelieved by both the courts below.

Learned counsel for the appellant has given up his argument with respect to the will but has pegged his case on the adoption deed under which the plaintiff claims ownership of the estate left behind by late Madan Lal.

The only question remains to be examined is whether the courts below were correct in reaching their conclusions with respect to the adoption deed Ex.D1 by deceased Madan Lal in favour of V. Mukesh son of Ved Parkash, the appellants in the two appeals.

Learned first appeal court agreed with the reasoning of the trial court that there were serious doubts and suspicious circumstances

surrounding the making of the adoption deed albeit it was registered. It has not been disputed that the family of late Madan Lal and the family of Ved Parkash father of minor V. Mukesh were at loggerheads since long and there would hardly be any occasion for the adoption deed to be made amongst warring factions of a larger family circle and the beneficiaries distantly related to deceased Madan Lal. There is also no evidence whether there was any special relationship or bond between deceased Madan Lal and the father of V. Mukesh, to believe that the deceased to have left behind considerable property, firstly, through a will and also an adoption deed executed on the same day, that is, on 10.4.2000. This is itself a seriously suspicious circumstance which cannot be ignored. Besides, the ceremonies of adoption of giving and taking have not been proved by any probative and unimpeachable evidence. Both the alleged documents are apparently sham documents manufactured by the appellants to acquire the property left behind by late Madal Lal by devious ways.

There is sufficient indication on record and from the findings of the courts below that there was something terribly wrong in the making of both the documents and property rights by natural succession could never be made to hang on them.

No question of law and much less a substantial one arises in both the appeals and they are consequently ordered to be dismissed by affirming the decrees and judgments of the both the lower courts.

(RAJIV NARAIN RAINA)
JUDGE

July 13, 2015