

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

RSA-4577-2011

Date of decision-05.10.2015.

MANINDER SINGH

...Appellant

VS

KAMLA DEVI

...Respondent

CORAM:- HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. M.L Sharma, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

Defendant is in second appeal against concurrent judgment and decrees passed by the Courts below decreeing the suit of the plaintiff. Execution of adoption deed dated 18.06.2002 is not proved on record for want of favourable depositions by natural parents. Mere registration of document does not give presumption to the document in terms of Section 16 of the Hindu Adoption and Maintenance Act as the presumption is rebuttable in nature and the same has been rebutted by the natural parents of the adoptee. Adoptee was the only son of natural parents and could not have been subjected to adoption in the manner as claimed by the defendant-appellant.

Even the defendant-appellant suffered statement before the Lok Adalat on 29.01.2005 and despite that the suit was got withdrawn by Chand Singh, the next friend of minor appellant, instead of getting it decreed. Conveyance deed made on 09.12.2004 has been proved to be without consideration in the absence of lawful adoption in favour of defendant-appellant. Even the natural father of the alleged adoptee made a statement before the Lok Adalat on 07.05.2005 that the adoption deed and the conveyance deed be set aside. No cogent evidence has been produced on record to prove

execution of adoption deed and consequent validity of conveyance deed dated 09.12.2004. The question No.1 as framed by appellant has no application inasmuch as that judgment and decrees passed by the Courts below are not found to have suffered with any perversity or the result of any misreading of evidence. Question No.2 is totally based on evidence. No evidence has been brought on record to prove execution of adoption deed dated 18.06.2002. Natural parents have not been examined. Adoptive mother has not been examined in affirmative. She appeared only in rebuttal and the Courts below with reference to evidence on record have given categorical findings that execution of adoption deed is not proved on record. Question No.3 is pure question of fact. No evidence of ceremonies of adoption have been brought on record. Conveyance deed as formulated in question No.1 is a consequent transfer based on adoption. If adoption is not proved, conveyance deed would become without consideration and that has no evidentiary value in the eyes of law. Even the natural father of the appellant has stated before the Lok Adalat on 07.05.2005 that both the transactions be treated to be nullity. Question Nos.5 and 6 are pure questions of fact and are not attracted.

In view of aforesaid, no law point worth consideration of this Court is made out in this appeal. The appeal is consequently dismissed.

October 05, 2015

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**(RAJ MOHAN SINGH)
JUDGE**