

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Regular Second Appeal No.3147 of 2015 (O & M)

Date of Decision: *October 01, 2015*

Paramjeet Kaur

..... PETITIONER

VERSUS

Jatinder Kaur

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

1. Whether Reporters of 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?

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PRESENT: - Mr. Chander Shekhar, Advocate, for the appellant.

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Jaspal Singh, J

Civil Miscellaneous No.7544-C of 2015

For reasons given in the application, delay of 103 days in refiling the appeal is condoned.

Application is allowed.

RSA No.3147 of 2015

1. The instant appeal has been preferred by plaintiff – Paramjit Kaur, challenging judgment and decree dated November 03, 2012 passed by the trial court as well as judgment & decree dated July 02, 2014 passed by the lower appellate court, whereby the suit instituted by plaintiff, seeking declaration to the effect that adoption deed dated April 18, 2007 is null, void

and liable to be set aside, and further, that defendant has no right or concern with regard to minor Shubhpreet Singh in future, was dismissed and appeal filed against the same dismissed by the lower appellate court, affirming the findings returned by the trial court.

2. While assailing the impugned judgments & decrees passed by both the courts below, it has been ebulliently argued by learned counsel for the appellants that the same are absolutely against the evidence available on record and settled canons of law. Mis-appreciation of the evidence has resulted into mis-carriage of justice. Defendant – respondent, who is the real sister of plaintiff, was married to Amanpreet Singh. Unfortunately, Amanpreet Singh had been taken away by the nature after some time of marriage. Since, no child was born out of their wedlock, defendant requested the plaintiff to hand over his son Shubhpreet Singh by way of adoption deed. Plaintiff agreed to give her son Shubhpreet Singh through adoption to the defendant. Accordingly, adoption deed was prepared and registered in this regard in the office of Sub Registrar, Ambala on April 18, 2007.

3. It has further been contended by learned counsel for the appellant that defendant – respondent treated Shubhpreet Singh as her real son and he was brought up and maintained by her in her care and custody. However, in the year 2009, defendant got re-married and started living in her in-laws' house whereas Shubhpreet Singh was left by the defendant in the house of her parents who is on the mercy of parents of defendants. The defendant – respondent was asked time and again to treat him as her son and provide him necessities of life but the defendant did not pay any heed. Hence, plaintiff was constrained to seek declaration that Adoption Deed dated April 18, 2007 registered in the office of Sub Registrar is null & void

with minor Shubhpreet Singh in future. Since, defendant – respondent is not looking after her minor adopted son, therefore, he is required to be treated as natural son of appellant – plaintiff by way of cancellation of adoption deed. Both the courts below have ignored and disbelieved the evidence brought in this regard by the appellant without assigning any cogent reason. As such, impugned judgments and decrees passed by the courts below are not sustainable in the eyes of law and are liable to be set aside by way of acceptance of the instant appeal.

4. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the appellant but find the same to be of no legal weight in view of the settled proposition of law.

5. The controversy involved in the instant appeal is fully covered by the mandatory provisions contained in Sections 12, 15 and 16 of the Hindu Adoptions and Maintenance Act, 1956 (for short, '1956 Act'). Section 12 of the 1956 Act clearly provides that an adopted child shall be deemed to be the child of his or her adoptive father or mother for all intent and purposes with effect from the date of adoption and from such date all the relations of the child in the natural family are deemed to be severed and replaced by those created by the adoption in the adoptive family. Section 16 of the 1956 Act envisages that whenever any registered document 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, it is obligatory for the court to presume that adoption has been made in compliance with the provisions of this Act unless and until it is disproved. Similarly, Section 15 of the 1956 Act which deals with the cancellation of the adoption deed provides that no adoption which

any other person, nor can the adopted child renounce his or her status as such and return to the family of his or her birth. In other words, even if the respondent has no objection to set aside the adoption deed, even then as per the aforesaid provision, the adoption deed Ex.P1 dated April 18, 2007 cannot be said to be cancelled or set aside. Moreover, there is nothing on the record to suggest that adoption deed dated April 18, 2007 is in violation of the provisions of the 1956 Act.

6. In view of the aforesaid discussion, this Court is of the considered view that judgments & decrees rendered by both the courts below which have been challenged through the instant appeal are absolutely in consonance with the settled provisions of the 1956 Act and do not call for any interference by this Court. There is no infirmity, illegality or impropriety in the findings recorded by the courts below as well as the impugned judgments & decrees. The instant appeal is nothing but devoid of merits. As such, the appeal is dismissed. However, parties are left to bear their own costs.

October 01, 2015
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(Jaspal Singh)
Judge