

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

[138]

**RSA No.3376 of 2015 (O&M)
Date of Decision: 16.11.2015.**

Jasvir Singh

...Appellant

Versus

Jasbir Singh Dodd and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Krishan Singh Dadwal, Advocate,
for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

KULDIP SINGH, J.(ORAL)

Challenged in the present Regular Second Appeal is the judgment and decree dated 27.04.2015, passed by the learned Additional District Judge, SAS Nagar, Mohali, affirming the judgment and decree dated 31.10.2013, passed by the learned Civil Judge, Junior Division, SAS Nagar, Mohali, whereby the suit of the plaintiff-appellant was dismissed.

Briefly stated, the plaintiff had filed the suit for declaration to the effect that Navjot Kaur is his natural daughter and was never given in adoption to the defendants and that the adoption deed dated 01.04.2005 is illegal, null and void and have no effect on the rights of the plaintiff being the natural father and Onkar Kaur (deceased)

being the natural mother of Ms. Navjot Kaur. Further declaration was sought that the judgment and decree dated 18.09.2010 be declared as void, having no effect in the eyes of law.

According to the plaintiff, Navjot Kaur was born on 09.01.1993. Defendants are residents of British Columbia, Nanaimo, Canada. They mis-represented the plaintiff and his wife (deceased) that they will take Navjot Kaur to Canada and asked the plaintiff and his wife since deceased to execute an adoption deed. Accordingly, adoption deed dated 01.04.2005 was executed. They also suffered a decree dated 18.09.2010, as the defendant had filed a civil suit No.403 dated 02.07.2010 and had told the plaintiff that to take Navjot Kaur abroad a decree is necessary. But Navjot Kaur was never taken abroad and she is living with the plaintiff since her birth. Even in the school certificate name of the plaintiff is shown as natural parent. In the written statement defendants took the plea that they wanted to take Navjot Kaur to Canada and they are still willing to do so. The other facts were also admitted. Both the Courts below have held that adoption deed is valid and judgment and decree was voluntarily suffered.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that date of birth of Navjot Kaur is 09.01.1993. The suit was filed on 01.07.2013 when Navjot Kaur was major. She was not even made proforma defendant. In fact, It is the

legal status of Navjot Kaur which is going to be changed. Therefore, in my view at the first instance Navjot Kaur was necessary party. Moreover, only she was competent to challenge that the adoption deed and judgment & decree passed against her interest are illegal. Therefore, in addition to the grounds mentioned by the Courts below, the suit of the plaintiff is otherwise not maintainable in the absence of Navjot Kaur being made party. In fact Navjot Kaur could file the suit in her independent capacity and challenge the adoption deed and judgment and decree. No ground to interfere in the same.

Accordingly, the present appeal stands dismissed.

November 16, 2015*Ankur***(KULDIP SINGH)
JUDGE**