

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

Regular Second Appeal No.6424 of 2014 (O&M)
Date of decision: 27.08.2015

Kulvir Kaur

.... Appellant

versus

Gurnam Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vikram Bali, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The appeal is filed by a person, who is 5th defendant in suit, resisting a suit filed by the brother of the deceased government employee Kuldip Singh that he was a legal heir at law for claiming all the terminal benefits after the death of the employee on 17.06.2005. His contention was that his (Kuldeep Singh's) wife, who succeeded him, died on 11.11.2005 and as a brother, he alone was entitled to the benefits. There are admittedly no natural born children.

2. The appellant filed an application for impleadment claiming herself to be an adopted daughter of Kuldip Singh. The

court found that the document relied on by the appellant viz. a certificate from public authority that she was the adopted daughter could not be relied on. The defendant was also attempting to show an entry in the school leaving certificate showing father's name as Kuldip Singh. The court found that the essential proof of the adoption, even without proof of religious ceremony, must be by giving the child in adoption by the natural parents and taking by the adoptive parents and there was no evidence brought in that regard. The court, therefore, drew an adverse inference against the defendant and granted a decree to the plaintiff. In the appeal filed by the defendant, the appellate court confirmed the finding about the defendant's status as not an adoptive daughter but held that the plaintiff's right will be considered in the light of Rule 6.16B of the Civil Services Rules Volume-II. The said rule provides that in respect of death-cum-retirement gratuity, the members of family shall only be to include a minor brother and not a major brother. The plaintiff herself is not in appeal before this court but the defendant states that the plaintiff's status as a daughter must have been considered in the light of the certificate produced and the recital in the school leaving certificate.

3. The status of adoptive daughter as a daughter with all legal incidence of succession, as the Hindu Succession Act contemplates, is such as would require the proof of adoption to be

available to the hilt and if the two courts held that without proof of giving and taking of the appellant in adoption a certificate or an entry in the school leaving certificate cannot avail, I will find that to be an appreciation of fact on documents brought before court. I will find no error for an interference. The second appeal is dismissed.

(K.KANNAN)
JUDGE

27.08.2015
sanjeev