

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.10 of 2014

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1. Uday Narain Singh Adopted Son Of Late Bishwanath Ram Resident Of
Mohalla Bal Batra, P.S. Ara Town, Dist - Bhojpur
..... Plaintiff Appellant
..... Appellant

Versus

1. The State Of Bihar
2. The D.G. B.M.P. 5 Patna
3. Commandant House Guard, Bhojpur (Ara)
..... Defendants Respondents
..... Respondents

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Appearance :

For the Appellant/s : Mr. Rajendra Nath Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 07-04-2016

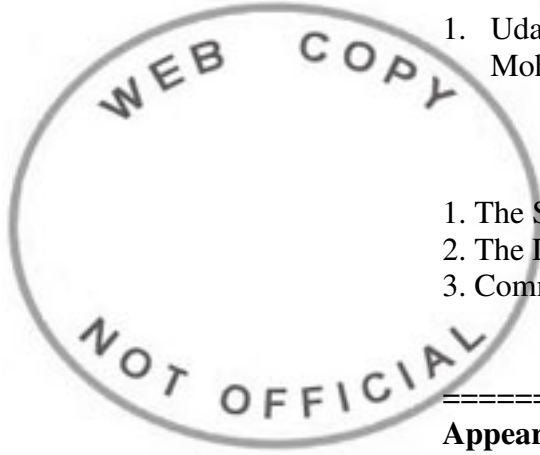
Heard learned Counsel for the appellant.

2. The plaintiff is the appellant in this appeal against the judgment and decree of affirmance.

3. The suit was filed for declaration that the plaintiff being the adopted son of Bishwanath Singh was entitled for his appointment on compassionate ground in place of his adoptive father Bishwanath Singh.

4. The facts are not in disputer that Satya Narayan Singh and Bishwanath Singh were two brothers. The plaintiff is admittedly the son of Satya Narayan Singh and it is his case that his father and mother both died while he was four years old in the year 1970 and thereafter Bishwanath Singh (his uncle) adopted him. It is also accepted by the learned Counsel for the appellant that after the death of the parents of the plaintiff, Bishwanath Singh was the guardian of the plaintiff. The defendants appeared and contested the reliefs sought by the plaintiff.

5. Both the courts below have come to the concurrent



finding of fact that the plaintiff has failed to establish, by cogent evidence, the case of his adoption as son by Bishwanath Singh. The suit was dismissed and thereafter the appeal of the plaintiff has also been dismissed by the impugned judgment and decree.

6. After perusal of the judgments of both the courts below and considering the submissions, it is manifest that there has been no averment in the plaint or in the deposition by the plaintiff before the court in the suit that in compliance of the provision of Section 9(4) the requisite permission of the court was taken by Bishwanath Singh before adopting the plaintiff, who was admittedly a minor at that time, as his son. The learned Counsel for the appellant has also fairly accepted that there has been no such averment either in the plaint or in the deposition by the plaintiff. In that view of the matter, this Court is not persuaded to find any unreasonableness or perversity in the judgments of both the courts below who have found concurrently that the plaintiff is not the adopted son of Bishwanath Singh. The appellate court below has also taken notice of the provisions of Section 9 of the Hindu Adoption and Maintenance Act in its judgment while considering the claim of the plaintiff.

7. In the ultimate eventualate, in this appeal, there is no substantial question of law arising for consideration. This appeal is accordingly dismissed.

Snkumar/-

(V. Nath, J.)

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