

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Second Appeal No.333 of 2013**

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Bajrangi Paswan Adopted Son Of Late Fucho Pandit And Natural Son Of  
Late Ram Sakal Paswan Resident Of Village - Adarsh Nagar Lagauli,  
Tilrath, Pargana Malki, P.S. - Barauni, District - Begusarai.

..... Plaintiff      ..... Appellant

.... .... Appellant

Versus

1. Executive Director, Refinery Township, Barauni      ..... Defendant 1st  
Party ..... Respondent 1st party

2. Smt. Depo Devi Widow Of Fucho Pandit Resident Of Village - Adarsh  
Nagar Lagauli, Tilrath, Pargana Malki, P.S. - Barauni, Sub-Registry,  
Taregna, District - Begusarai.      ..... Defendant 2<sup>nd</sup> party .....  
Respondent 2<sup>nd</sup> party

.... .... Respondents

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**Appearance :**

For the Appellant/s      :      Mr. Sanjay Sinha

For the Respondent/s      :      Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

3      10-02-2016      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 by the plaintiff for declaration that he  
was the adopted son of Late Phucho Pandit and his wife Dipo Devi  
and has got the right as their natural son. The defendant 1st party  
contested the claim of the plaintiff by filing written statement. The  
defendant second party Dipo Devi filed her written statement  
supporting the claim of the plaintiff.

3. Both the courts below have come to the concurrent  
finding of fact that the plaintiff has failed to establish the fact of his  
adoption as claimed. The courts have also come to the conclusion  
that the suit was barred by limitation.



4. Learned Counsel appearing for the appellant has submitted that both the courts below have not considered the provisions of Section 16 of the Hindu Minority and Guardianship Act, 1956, whereby a presumption has been raised with regard to the registered deed of adoption. Elaborating his submissions, it has been canvassed that the plaintiff has relied upon and produced a registered deed of adoption (Ext. 2) and the courts below were required to examine the necessary presumption of correctness of the said document. No other submission has been made on behalf of the appellant.

5. After perusal of the judgments of both the courts below and considering the submissions, it is pellucid that the crucial issue in the suit was the fact of adoption of the plaintiff by Phucho Pandit and his wife Dipo Devi, as claimed by the plaintiff in his plaint. The appellate court below has gone into elaborate consideration of the facts pleaded by the plaintiff in his plaint and the facts pleaded by the defendant 2<sup>nd</sup> party Dipo Devi in her written statement relating to the adoption and has come to the conclusion that the statements in that regard are contrary and disclose a peculiar situation where a fake date of adoption of the plaintiff emerges. Further, after taking notice of the deposition of the plaintiff himself, the appellate court below has come to conclude that the case of adoption as made by the plaintiff creates suspicion. The appellate court below has also taken into notice that by letter dated 7.1.1993 the defendant 1st party directed the plaintiff to furnish valid papers in support of his claim on the basis of adoption and on that basis it has been held that the cause of action

arose for filing the suit on 7.1.1993 itself, but the suit has been filed in the year 2007. The legal inference by the courts below on the basis of evidence and pleadings on record cannot be said to be implausible; and simply because another view may be possible, the concurrent findings of facts cannot be interdicted at the second appellate stage. So far as the submission on the basis of Section 16 of the Hindu Adoption and Maintenance Act, 1956, it is well settled that the purpose of providing for presumption of a fact is only limited to the extent of shifting the burden of proof and once after the parties have led evidence in support of their rival claim on the said issue, the purpose of presumption loses its relevance.

6. In view of the aforesaid discussions, this Court does not find that any substantial question of law is arising for consideration in this appeal, which is accordingly dismissed.

**(V. Nath, J.)**

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