

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

CWP-21583-2013

Date of decision : 22.01.2016

Gurjot Singh

..... Petitioner

Vs

Union of India & Anr.

..... Respondents

Coram : Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Mandeep Singh Sachdev, Advocate,
for the petitioner.

Mr. Krishan K. Chahal, Advocate
for respondent No.1.

Mr. Karminder Singh, Advocate
for respondent No.2.

Rakesh Kumar Jain, J. (oral)

The petitioner has challenged the order dated 6.9.2013 (Annexure P-7) by which respondent No.2 has refused to issue passport to him in the name of his natural parents.

In short, the petitioner was born on 18.07.1988 to Smt. Sharanjit Kaur and Bhupinderjit Singh (since deceased). He was given in adoption by his natural mother to Sadhu Singh son of Iqbal Singh and Iqbal Kaur wife of Sadhu Singh vide registered adoption deed 4.4.2002. When the petitioner became major, he filed a suit for declaration challenging the said adoption deed as illegal. In the said suit, the claim of the petitioner was admitted by defendant No.1 (Sharanjit Kaur, his natural mother), the other two defendants (adoptive parents) were proceeded against ex parte as they did not appear despite notice. The Civil Court

decreed the suit on 23.4.2012. The relevant portion of the decree read as under :-

“It is ordered that suit of the plaintiff is succeeds and the same is hereby decreed and the adoption deed dated 04.04.2002 claimed to be executed between the defendant No.1 on one side and defendants No. 2 and 3 on the other side, is illegal, null and void, having no effect on the rights of the plaintiff and defendant No.2 and further defendants No. 2 and 3 a re restrained from claiming any right over the plaintiff on the basis of said alleged adoption deed dated 04.04.2002.”

It is pertinent to mention that the petitioner was already having a passport bearing No. E6093935 as a son of his adoptive parents Sadhu Singh (adoptive father) and Iqbal Kaur (adoptive mother), which was issued on 4.9.2003 and had a life of ten years upto 03.09.2013. After the decree was passed, the petitioner filed an application to respondent No.2 on 12.12.2012 to reissue the passport in the name of his natural parents in view of the decree dated 23.4.2012. Since respondent No.2 did not pay any heed to his request, therefore, he served a legal notice and thereafter filed Civil Writ Petition bearing No. 14549 of 2013, which was disposed on 11.7.2013 with a direction to respondent No.2 to pass necessary order on his application. In consequence thereof, the respondent has passed the impugned order dated 06.09.2013 on the ground that the said decree was inter se

between the parties in which respondent No.2 was not a party, therefore, the said decree cannot be looked into. Hence, this petition has been filed against the said order dated 6.9.2013.

Counsel for the petitioner has submitted that the petitioner is Sikh by religion, governed by Hindu Adoption and Maintenance Act, 1956, as the said Act is applicable to Sikhs also in terms of Section 2(1)(b) of the Act and according to Section 12 of the said Act, the the effect of the adoption is that the child given in adoption loses all connection with his natural family and takes legal rights of the adoptive family. As per Section 42 of the Indian Evidence Act, 1872 the judgment of the Civil Court determining his rights, would apply to the respondents as well even if the respondent No.2 was not a party to it. In this regard he has placed reliance on a Division Bench judgment of the Kerala High Court in ***Thailambal Ammal vs. Kesavan Nair 1957 AIR (Kerala) 86.***

On the other hand, respondent No.2 has relied upon the reasoning adopted by respondent No.2 in the impugned order.

I have heard both the parties and after examining the record, am of the considered opinion that the impugned order is patently erroneous because when the petitioner was given in adoption, the passport was duly issued to him in the name of his adoptive parents because the petitioner had severed all his relations with the natural parents in terms of Section 12 of the Act

but as soon as the said adoption has been declared to be null and void by the Civil Court in the suit filed by the petitioner against the natural parents, the said decree has to be given effect which declares the present status of the petitioner. If the petitioner's status has been declared by the Civil Court that he was not adopted vide the adoption deed dated 4.4.2002, the status quo ante has to be presumed and for that matter the petitioner has to be presumed to be the son of his natural parents and has rightly filed the application before respondent No.2 for making corection in the name of his parantage in passport after passing of the Civil Court decree on 23.4.2012. Consequently, this petition is allowed. Respondent No.2 is directed to issue the passport to the petitioner by mentioning the name of his natural parents in it, within a period of one month from the date of passing of this order.

(RAKESH KUMAR JAIN)

JUDGE

22.01.2016

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