

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

**RSA No.3273 of 2016 (O&M)
Date of decision:03.10.2016**

Dinesh

Appellant

Vs.

Smt. Om Pati (now deceased) through LRs and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.S.Tacoria, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.8702-C of 2016

For the reasons stated in the application, duly supported by an affidavit, delay of 18 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.3273 of 2016 (O&M)

The appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, suit seeking declaration being adopted son of Om Pati and deceased Ajit Singh and challenge to the sale deeds dated 03.07.2008 and 24.12.2008, has been dismissed.

Mr. R.S.Tacoria, learned counsel appearing on behalf of the appellant-plaintiff submits that vide registered adoption deed dated 21.03.2002 (Ex.PW3/A), the appellant-plaintiff was adopted by defendant No.1. The ingredients of Hindu Adoption and Maintenance Act were complied with. Though he has a right in the property by birth yet the

property at the hands of Ajit Singh was ancestral. The registered document carries a presumption of truth. He further submits that all these aspects have been ignored by both the Courts below and thus, there is illegality and perversity in the findings under challenge.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book and of the view that the appellant-plaintiff has miserably failed to discharge the onus and inasmuch as all the documents brought on record showed him to be natural son of Sube Singh and even the alleged adoption was denied by his adopting mother. No evidence has been led to show that the property at the hands of Ajit Singh was ancestral. Assuming for an argument sake, though not admitting that the appellant was adopted son of Om Patti but on demise of Ajit Singh, she became the absolute owner of the property. In the absence of the nature and character of the property, she became owner of the property being, self-acquired, therefore, the appellant could not challenge the aforementioned sale deeds. He has no right in the property by birth. Once there was serious contest by adopting mother qua adoption, I am of the view that the plaintiff has failed to discharge the onus of adoption. In my view, the alleged adoption had never been acted upon. Both the Courts below have already pondered upon the aforementioned aspect.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 03, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No