

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

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Regular Second Appeal No.3990 of 2014

Date of Decision: January 07, 2016

Jatinder Kumar

...Appellant

Versus

Krishan Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Raman Sharma, Advocate
for the appellant.

Mr. Raman B. Garg, Advocate
for respondents No.1 and 2.

Mr. D.S. Dadwal, Advocate
for respondents No.3 and 4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Ludhiana, dated 14.05.2013, whereby the suit filed by the appellant-plaintiff for declaration to the effect that the adoption deed issued by Vasika No.6037, Jild No.102, page No.37 dated 24.03.1988 regarding adoption deed of the appellant-plaintiff by respondents-defendants 3 and 4 is illegal, wrong, null and void, against the provisions of the Hindu Adoption and Maintenance Act, 1956 (hereinafter referred to as the '1956 Act'), and, therefore, not binding upon the appellant-plaintiff and thus, he continues to be the son of respondents-defendants 1 and 2 entitling him to the consequential benefits, has been dismissed primarily on the ground of limitation, appeal against which preferred by the appellant-plaintiff has also been dismissed by the Additional District Judge, Ludhiana, on 14.03.2014, on the same ground, although giving a finding that there is a legal defect in the adoption deed

dated 24.03.1988 Exhibit P-4 and holding it to be not a valid adoption as it was against the provisions of the statute.

2. It is the contention of learned counsel for the appellant that the findings as recorded by the Courts below on the question of limitation cannot be accepted as the adoption deed dated 24.03.1988 Exhibit P-4 is void as per Section 5 of the 1956 Act. He places reliance upon the judgment of the Bombay High Court passed in case titled as *Hiraman Manga Jangale and another Versus Girjabai W/o Manga Jangale* 1983 Maharashtra Law Journal 81, to contend that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside, specially in the light of the findings as recorded by the learned Lower Appellate Court with regard to the validity of the adoption deed.

3. Counsel for the respondents could not rebut the assertions, as has been made by the counsel for the appellant. They also concede that the case of the appellant-plaintiff is covered in his favour by the judgment of Bombay High Court passed in *Hiraman Manga Jangale's case (supra)*, wherein it has been held that any adoption which is void in terms of Section 5 of the 1956 Act can be challenged at any time and there is no limitation prescribed for the same.

4. In view of the above, the impugned judgments and decree dated 14.05.2013 passed by Civil Judge (Junior Division), Ludhiana and 14.03.2014 passed by Additional District Judge, Ludhiana, are set aside. The suit of the appellant-plaintiff is decreed by holding that the adoption deed issued by Vasika No.6037, Jild No.102, page No.37 dated 24.03.1988, regarding the adoption deed of the appellant-plaintiff by respondents-defendants 3 and 4-Vinod Kumar and Smt. Krishna Devi, is

void being against the provisions of the 1956 Act and, therefore, he continues to be the son of respondents-defendants 1 and 2 and also entitled to the consequential benefits, if any, in accordance with law.

January 07, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**