

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.472 of 2015
(Dadarao Laxmanrao Bhalavi v. Soma Gangaram Bhalavi and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Smt. S.W. Deshpande, Advocate for Appellant.
Ms Shilpa Ghatole, Advocate for Respondent No.2.

Coram : R.K. Deshpande, J.
Date : 17th January, 2017

Regular Civil Suit No.5 of 2008 for declaration that the plaintiff is the adopted son of deceased Laxman Bhalavi and hence he is the sole legal heir of the deceased, was dismissed by the Trial Court on 10-8-2009. The lower Appellate Court has dismissed Regular Civil Appeal No.58 of 2009. Hence, the original plaintiff is before this Court against the concurrent findings of fact.

The claim of the plaintiff was that he is the adopted son of one Laxman Bhalavi, belonging to the Scheduled Tribe category. Several documents are produced on record, including the so-called deed dated 10-10-1982 at Exhibit 37, said to have been signed by the natural father and the adoptive father of the plaintiff. The claim of the plaintiff was that he was born on 4-2-1955 and was adopted by Laxman Bhalavi when the plaintiff

was aged about 1½ years.

The Courts below have held that the documents at Exhibits 23, 24, 25, 31, 32, 33 and 34 were executed after 1998, i.e. after the death of the adoptive father Laxman Bhalavi on 18-6-1986, and the other documents were executed in the year 1982. There is not even a single document produced on record executed at the time of so-called adoption. Even the exact date on which the adoption ceremony took place, has also not been mentioned. The evidence of witness Runza, examined by the plaintiff as PW 3, who was aged about 17 years, is considered by both the Courts below and a doubt is expressed about his presence at the time of adoption. There is no evidence produced on record to establish the custom prevailing in the Scheduled Tribes for adoption. The Courts below have held that there is no evidence to establish the fact of giving and taking the plaintiff in adoption.

No substantial question of law arises for consideration. The second appeal is dismissed.

Judge.

Lanjewar