

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24654 of 2017 (O&M)
Date of decision: 23.5.2018

Navneet Kaur

...Petitioner

Versus

Union of India and another

...Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr.B.D.Sharma, Advocate for the petitioner.

Mr.Vipul Aggarwal, Advocate for respondents No.1 and 2.

Rakesh Kumar Jain, J.(Oral)

CM No.7733 of 2018

This application is filed for placing on record reply on behalf of respondent No.1 and 2.

CM is allowed as prayed for.

JUDGMENT

The petitioner has prayed for the issuance of a writ in the nature of mandamus for the re-issuance of passport.

In brief, the petitioner was born on 8.3.1992 from the wedlock of Chatar Singh and Bhupinder Kaur. She was adopted on 13.3.2003 by Surinder Singh and Jatinder Kaur. After adoption, the petitioner obtained passport No.E4738532 in which the names of her adoptive parents were mentioned. However, biological mother of the petitioner Bhupinder Kaur challenged the adoption deed dated 13.3.2003 by filing a suit for declaration after impleading both the adoptive parents and General public as a party. The adoptive parents did not appear in the suit and were proceeded against ex parte. Bhupinder Kaur

led the ex parte evidence on the basis of which the civil court decreed the suit on 31.8.2010 declaring the adoption deed dated 13.3.2003 as null and void. The said decree dated 31.8.2010 has not been set aside either in appeal or on filing of an application by the defendants therein under Order 9 Rule 13 of CPC, 1908. The petitioner thereafter, applied for re-issuance of the passport by moving application because the earlier passport had expired on 7.3.2007 and also requested for making necessary correction with regard to mentioning of the names of her biological parents because of the decree dated 31.8.2010.

It is submitted by the counsel for the petitioner that the said application seeking re-issuance of the passport is pending with the respondent-Passport Authorities and is not making any headway.

The stand taken by the respondent is that decree dated 31.8.2010 is not binding upon them.

Counsel for the petitioner has submitted that the petitioner is a Hindu and is governed by the Hindu Adoptions and Maintenance Act, 1956 in which Section 12 deals with the **Effect of adoption.-**

“An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.”

The petitioner had applied for passport on 8.5.2003 after having been adopted vide adoption deed dated 13.3.2003. However, the said adoption deed has been declared null and void because the civil court had passed a decree in favour of her natural mother on 31.8.2010 and therefore, she has been retransplanted in the natural family from the adoptive family. It is also submitted that respondents have wrongly raised the objection that the

decree dated 31.8.2010, passed by the civil court, declaring the adoption deed as null and void is not binding on them.

At this stage, Sh.Vipul Aggarwal, Advocate appearing on behalf of the passport authority has submitted that fault lies with the petitioner who is not coming forward with the relevant documents for the purpose of issuance of passport to her.

After hearing the learned counsel for the parties and examining the record, I am of the considered opinion that this petition has merit because the rights of the petitioner were severed because of her adoption by way of adoption deed dated 13.3.2003, therefore, she had applied for the issuance of the passport with the adoptive parents but since the said adoption deed has been declared null and void by virtue of ex parte decree dated 31.8.2010, the petitioner had rightly applied for re-issuance of passport with the names of her natural parents. Objection raised by the respondent that the decree dated 31.8.2010 is not binding upon them is incorrect. Therefore, the present petition is hereby disposed of with a direction that the passport authority shall not raise any objection with regard to the validity of the decree dated 31.8.2010 and after considering the documents which are otherwise necessary for the issuance of passport shall consider for the issuance of passport.

May 23, 2018
Meenu

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No