

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

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**FAO No.553 of 2016 (O&M)
Date of Decision : 22.10.2018**

Wazir

..... Appellant

Vs.

Vidya Devi and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. R.A.Sheoran, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit for declaration filed by the appellant.

The appellant had sought a declaration that he was the adopted son of Tara Chand and consequently, after his death he was entitled to inherit a share in the property of Tara Chand. The respondent No.1 was shown as the widow, respondent No.2 was shown as the alleged widow of Tara Chand and respondent No.3 was stated to be the alleged daughter of Tara Chand. As per his case he was adopted when he was about 14 years old. On 02.07.1987 Tara Chand died and after about 1 ½ years on 01.02.1989 respondent No.1 got registered an adoption deed (exhibit P-1). He alleged that respondent No.2 was never married to Tara

Chand and respondent No.3 was not his daughter. The respondents denied that the appellant was ever adopted and maintained that respondent no.2 was the second wife of Tara Chand and respondent No.3 his daughter. Both the Courts below rejected the claim of the appellant primarily on the ground that he had not even mentioned when the adoption had taken place and on the date of adoption deed he was admittedly more than 14 years of age. They further noticed the fact that the adoption deed was executed 1 ½ years after the death of Tara Chand and consequently dismissed the suit.

Learned counsel has argued that it was not open to the Courts to have rejected the registered document. However, it can not be lost sight of that the document was not executed by the adopted father. He has further argued that exhibit (P-29) clearly revealed that respondent No.3 was born about 2 years after the death of Tara Chand.

In my considered opinion, this fact would not help the appellant to prove that he was the adopted son of Tara Chand. Once no date of adoption was mentioned then at best the adoption could be taken to be from 01.02.1989 and on that date the appellant was more than 14 years of age.

Counsel has further argued that no counter claim was filed challenging the adoption deed. In my opinion once the respondents had denied the adoption of the appellant there was no occasion for them to file a counter claim to challenge the deed specifically.

In the circumstances, no fault can be found with the judgments of the Courts below.

Appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

22.10.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No