

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 1396 of 2017(O&M)
Date of Decision:26.9.2018

Baldev Singh

---Appellant

vs.

Gurpreet Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Deepak Aggarwal, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for declaration that the appellant alongwith respondent No. 2 are the only legal and natural heirs of Mohinder Singh @ Mindi (since deceased) and entitle to inherit suit property, detailed in head note of the plaint, on the basis of natural succession and further challenge to adoption deed dated 12.8.2004 regarding adoption of respondent No. 1 by Mohinder Singh @ Mindi and order dated 15.3.2010 vide which mutation No. 7151 regarding inheritance to deceased Mohinder Singh @ Mindi in favour of respondent No. 1 was dismissed by the trial court vide judgment and decree dated 13.5.2014. The appeal preferred by unsuccessful plaintiff/appellant did not find favour with the Additional District Judge, Bathinda.

The first submission made by counsel for the appellant is that

as the registered adoption deed does not bear signatures or thumb impressions of Smt. Veerpal Kaur, mother of respondent No. 1 Gurpreet Singh, adoption deed cannot be used to the advantage of respondent No. 1 to establish his plea that he was adopted by Mohinder Singh @ Mindi. Another submission made by counsel is that respondent No. 1 failed to adduce cogent and convincing evidence on record that in a ceremony he was given in adoption by his natural parents namely Tarsem Singh and Veerpal Kaur and taken in adoption by Sh.Mohinder Singh @ Mindi, therefore, judgments passed by the Courts accepting that Gurpreet Singh was adopted by Sh Mohinder Singh @ Mindi and is entitle to inherit to estate of Mohinder Singh @ Mindi being his adopted son are liable to set aside.

I have heard counsel for the appellant, perused the paper book and copies of documents supplied during the course of hearing.

Counsel for the appellant is guilty of mis-stating that adoption deed does not bear endorsement of Smt. Veerpal Kaur, natural mother of Gurpreet Singh. The document bears thumb impressions of Smt. Veerpal Kaur both at the time of execution of adoption deed as well as registration by Joint Sub Registrar, Sangat, District Bathinda. The contesting respondent examined Gurdarshan Singh Nambardar DW1, Tarsem Singh his father DW2 and Balkaran Singh DW3 to prove the adoption deed as well as the factum that there was ceremony of giving and taking of respondent No. 1 in adoption by his natural parents to Sh. Mohinder Singh @ Mindi who was bachelor. Gurdarshan Singh and Balkaran Singh are the attesting witnesses of the adoption deed Ex. DW4/A.

Section 16 of the Hindu Adoptions and Maintenance Act, 1956

(in short "the Act") deals with presumption as to registered documents relating to adoption. A relevant extract therefrom, reads as follows:-

“Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”

Since it has been proved that the registered adoption deed was executed with regard to adoption of Gurpreet Singh by Tarsem Singh and Veerpal Kaur in favour of Mohinder Singh @ Mindi that also bears photograph of natural parents and adoptive father of Gurpreet Singh, there is a presumption in law that adoption has been made in compliance with the provisions of the Act. Counsel for the appellant has failed to point out any materials on record to disprove the same. That being so, appellant and his sister can not claim inheritance to estate of Sh. Mohinder Singh @ Mindi in preference to adopted son of the deceased.

To be fair to the appellant, counsel has made a submission that Gurpreet Singh is the only son of Tarsem Singh and Veerpal Kaur, therefore, it is difficult to believe that natural parents would give their only son in adoption to Mohinder Singh @ Mindi. Gurpreet Singh was barely five years old when he was given in adoption and the adoption deed dated 12.8.2004 was executed and registered. Tarsem Singh in his cross examination has stated that at the time of giving Gurpreet Singh in adoption,

his wife was in family way as she was expecting.

Firstly, there is no legal bar giving the only son in adoption. Tarsem Singh and Veerpal Kaur had another child though a female. As per testimony of Tarsem Singh, the family was expecting another child at the time of giving Gurpreet Singh in adoption. In the given scenario, there is nothing unnatural and abnormal that natural parents of the child decided to give their only son in adoption to Mohinder Singh @ Mindi. In view of the above, the appellant has failed to make out a case that concurrent findings recorded by the courts suffer from error much less perversity that would call for intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

26.9.2018
paramjit

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