

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

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RSA-1709-2018 (O&M)
Date of decision: 26.09.2018

DHARAMPAL

... Appellant

Versus

SUNITA

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amandeep Sheoran, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration and permanent injunction filed by the plaintiff/appellant claiming right in the property of Sh. Somdutt on the premise that he is the adopted son of Somdutt and Nathiya has been dismissed by the Courts and respondent/defendant, admittedly daughter of Somdutt and Nathiya has been held entitle to suit property on the basis of natural succession.

Counsel for the appellant, in response to a query, has fairly conceded that the appellant had failed to adduce any evidence to prove the ceremonies of giving and taking of the appellant in adoption between his natural parents and the alleged adoptive parents. He has also conceded that there is no adoption deed in favour of the appellant. However, counsel has sought to rely upon certain documents wherein the appellant has been mentioned to be son of Somdutt.

The Hindu Adoptions and Maintenance Act, 1956 (in short 'the

Act') regulates the adoption by or to a Hindu after the commencement of Act that came into force in the year 1956. Section 6 of the Act deals with requisites of a valid adoption. Other conditions for a valid adoption are provided in Section 11 thereof. Clause (vi) of Section 11 say that the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up to the family of its adoption. In the case at hand, the appellant has failed to prove any such ceremony of giving the appellant in adoption by his natural parents and taking him in adoption by his adoptive parents. The appellant has failed to prove one of the essential conditions of a valid adoption, envisaged in Section 11 of the Act. The mere fact that in some of the documents, appellant has been recorded to be son of Somdutt is not sufficient to establish plea of the appellant that he was adopted by Sh. Somdutt and Nathiya or was given in adoption by his natural parents. That being so, no error much less illegality and perversity can be noticed in consistent findings recorded by the Courts that would call for intervention in regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

26.09.2018

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No