

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

RSA No.6139 of 2016 (O&M)

Date of decision:04.04.2019

Hardeep Kaur

... Appellant

Vs.

Buta Singh (since deceased) through LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Brijeshwar Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been successful in defending the appeal preferred by the defendants against the judgment and decree dated 29.07.2013 according him the declaration of ownership qua estate of Darbara Singh.

The plaintiff claimed the declaration of having become the owner of land measuring 35 kanals 19 marlas and also laid challenge to the sale deed dated 29.11.2007 and subsequent mutations on the demise of Darbara Singh on 09.01.1998. She was adopted daughter vide adoption deed dated 15.05.1976. Darbara Singh and Chinto Kaur died on 09.01.1998 and 13.04.2007 respectively. After the demise, defendants executed the sale deed being relatives of Chinto Kaur acquiring ownership of the property as per the provisions of Section 15 of Hindu Succession Act.

The defendants denied the status of the plaintiff to be adopted

daughter and stated that they were issueless. Moreover, successor-in-interest in view of the aforementioned provisions of the Act.

The plaintiff in support of the pleadings examined five witnesses i.e two witnesses of adoption deed; herself as PW3; her brother as PW5 and brought on record adoption deed dated 15.5.1976 as Ex.P1 , voter list, sale deed and jamabandi etc. On the other hand defendants, examined three witnesses and brought on record few documents.

The trial Court on the basis of the evidence decreed the suit and set aside the sale deed. However, the Lower Appellate Court as noticed above reversed the findings.

Learned counsel appearing on behalf of the appellant submitted that documentary evidence referred to above is sufficient to establish that appellant was adopted daughter as attesting witnesses despite extensive examination did not budge against the interest of the plaintiff. The voter list was also one of the clinching evidence to establish the relation.

I am afraid the aforementioned argument is not sustainable, for, ingredients of Section 6 of Hindu Adoption and Maintenance Act, 1956 are conspicuously wanting. For the sake of brevity, Section 6 reads as under:-

Section 6 in The Hindu Adoptions and Maintenance Act, 1956

6 Requisites of a valid adoption. —No adoption shall be valid unless—

(i) the person adopting has the capacity, and also the right, to take in adoption;

[\(ii\)](#) the person giving in adoption has the capacity to do so;
[\(iii\)](#) the person adopted is capable of being taken in adoption;
and

[\(iv\)](#) the adoption is made in compliance with the other conditions mentioned in this Chapter.”

The witnesses have not stated in terms of the aforementioned provisions of the Act. It is also matter of record that plaintiff was 50 years of age at the time of filing of suit. Apparently, alleged claim was an act of aggrandizement.

In view of the aforementioned observations, finding of fact and law cannot be said to be suffering from illegality and perversity.

No ground is made out for interference.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 04, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No