

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

RSA No. 4497 of 2017 (O&M)

Date of decision: 06.02.2020.

Ramesh Kaushik

..... Appellant.

Versus

Mohit and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Rajesh Bansal, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant/plaintiff has challenged the judgments and decrees of the Courts below whereby the suit preferred by him for declaration that the adoption deed dated 15.02.2006 is *null and void* has been dismissed.

Learned counsel for the appellant/plaintiff contends that the adoption deed was registered under suspicious circumstances inasmuch as the executor, namely, Bhim Sen Kaushik had expired on 28.02.2006 while the adoption deed was registered on 15.02.2006. He also contends that Bhim Sen Kaushik was admitted in hospital from 11.01.2006 to 28.01.2006. The wife of the executor, namely, Narayani Devi had expired on 07.01.2006 and, therefore, the purported ceremonies towards adoption could not have taken place on 14.01.2006.

Heard.

I do not find any merit in the contentions of the learned counsel for the appellant/plaintiff that the adoption deed was executed under

suspicious circumstances and, therefore, it has to be treated as *null and void*.

The adoption deed was registered in the office of Sub-Registrar, Charkhi Dadri in Book No. 4, Jild No. 26 at page No. 161 at serial No. 277. Mutation No.4316 in terms of adoption deed had also been entered and sanctioned on 30.06.2006 in favour of respondent/defendant No.1. Bhim Sen Kaushik adopted respondent/defendant No. 1 - Mohit, who is the son of their third brother, namely, Om Parkash Kaushik.

DW1 Shri Bhagwan, who was the Registry Clerk, had duly proved the execution of the adoption deed. DW2 Jagdish Singh, Computer Operator, had also deposed that he had certified the adoption deed (Ex. DW1/A) by identifying the photos which had been taken by him. Udai Singh, Deed Writer, had also proved the adoption deed by deposing as DW3. DW4 Raje Ram, who was living in the neighbourhood of the executor, had also proved the adoption deed. The attesting witness, namely, Kuldeep, Numberdar of the village, had also deposed as DW5 and proved the adoption deed.

It is also borne out from the material on record that Bhim Sen Kaushik, the executor of the adoption deed, who was the brother of the appellant/plaintiff had lodged a criminal case against the appellant/plaintiff. It is rather ironical that the appellant/plaintiff against whom Bhim Sen Kaushik had initiated criminal proceedings is now challenging the adoption deed executed by Bhim Sen Kaushik in favour of his nephew, who is the son of the third brother. The appellant/plaintiff appears to have been inimical towards Bhim Sen Kaushik during his lifetime, but now under the garb of the instant suit by challenging the adoption deed wants to usurp his property.

The documents with regard to the medical treatment of the executor Bhim Sen Kaushik at the Army Hospital, Delhi have been tendered by the appellant/plaintiff as Ex. P4 to Ex. P22, but those were not certified by the medical officer, who had prepared the same.

Furthermore, Narayani Devi, the wife of Bhim Sen Kaushik, is stated to have expired on 07.01.2006, but it has come in evidence that she did not have good relations with Bhim Sen Kaushik and had been residing separately. I do not find anything suspicious in ceremonies towards adoption being performed on 14.01.2006. It is possible that after the death of his wife, Bhim Sen Kaushik wanted to have his heir to inherit his property and, therefore, executed the adoption deed.

In the wake of aforementioned facts and circumstances, it is manifest that the appellant/plaintiff has not been able to rebut the presumption of truth attached to the registered adoption deed in terms of Section 16 of the Hindu Adoption and Maintenance Act, 1956.

Consequently, I do not find any merit in this appeal, which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

06.02.2020
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No