

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.258 of 1994 (O&M)
Date of Order:15.04.2024

Rulli Ram

.Appellant

Versus

Krishan and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Ajay Jain, Advocate
for the applicant-appellant**

**Mr. B.S.Beniwal, Advocate
for respondent no.1, 2, 5 to 7.**

ANIL KSHETARPAL, J

C.M.No.2262-C-2024

1. For the reasons stated in the application, which is supported by an affidavit, the application is allowed and the appeal is restored to its original number. With the consent of the learned counsel representing the parties, taken on Board for final disposal.

MAIN

2. This is the defendant's regular second appeal against the judgment and decree passed by the First Appellate Court which in turn has reversed the judgment and decree passed by the trial court.

3. On the death of Sh. Puran, the revenue authorities sanctioned the mutation in favour of his Class-I heir including Sh. Rulli Ram, the appellant. The plaintiffs claim that Sh. Rulli Ram was adopted by Sh. Nanu, who was brother of Sh. Puran. Hence, he has no right to inherit the property from Sh. Puran. Sh. Rulli Ram by filing the written statement denied adoption.

4. The trial court dismissed the plaintiffs' suit on the ground that Sh. Rulli Ram was more than 15 years on the date the adoption took place, hence, it was not legal.

5. The First Appellate Court upon re-appreciation of the evidence held that Sh. Rulli Ram along with various other persons filed a previous suit on 04.01.1986, claiming to be adopted son of Sh. Nanu which was decreed on 28.02.1986. Thus, the judgment and decree passed by the trial court was reversed.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with requisitioned record.

7. The learned counsel representing the appellant submits that the alleged adoption is after coming into force of the Hindu Adoption and Maintenance Act, 1956, which prohibits adoption of a child more than 15 years on the date of adoption. He further submits that there is no written document of adoption and the ceremonies of adoption have not been proved by the plaintiffs.

8. On a court question, the learned counsel representing the appellant admits that in Civil Suit no.9 of 04.01.1986, Sh. Rulli Ram claimed that he is adopted son of Sh. Nanu. In this case, no definite date of adoption has come on record.

9. Moreover, if the custom permits, the adoption of a child of more than 15 years is permissible. In this case, the defendant (appellant) has himself filed a previous suit claiming to be adopted son. Hence, he is estopped from disputing the various position.

10. Keeping in view the aforesaid facts and discussion, no ground

to interfere is made out.

11. Dismissed.
12. All the pending miscellaneous applications, if any, are also disposed of.

April 15, 2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO