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

**RSA-3884-2013 (O&M)
Date of decision : 31.10.2025**

Lal Singh

....Appellant

Versus

Jaibir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Chanderhas Yadav, Advocate
for the appellant.

Mr. Amit Jain, Advocate
for respondent No.1

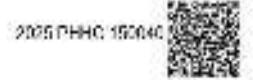
Service of notice upon respondents No.2 to 5
dispensed with vide order dated 28.07.2014.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in second appeal.

2. For convenience, the parties hereinafter are referred to by their original position before the Court of the First Instance i.e., the appellant as plaintiff, respondent No.1 as defendant No.1. and respondents No.2 to 5 as defendants No.2 to 5.

3. The plaintiff filed suit claiming declaration to the effect that he along with defendants No. 2 to 5 are owner in possession of the land left by Narain their father. Defendant No.1 their real brother in his childhood was given in adoption to Smt. Chitra widow of Gopi brother of Narain. He having been uprooted from the family of Narain and supplanted in his



adoptive i.e., family of Gopi and Chitra, has no right, title or interest to succeed to the estate of Narain. He already succeeded to the estate left by Chitra on the basis of judgment and decree dated 03.11.1989 passed in Civil Suit No.1071 of 1989 titled as 'Jaibir vs. Smt. Chitra' claiming himself to be adopted son of Chitra.

4. Suit was contested by defendant No.1 who denied his adoption and claimed his status as one of the legal heirs of Narain.

5. Suit filed by the plaintiff was put to trial framing following issues:

1. Whether plaintiff and defendant no.2 to 5 are absolutely owner in possession of the suit property to the extent of their father, on the grounds as alleged? OPP
2. Whether plaintiff is entitled for decree of permanent injunction? OPP
3. Whether the plaintiff has no locus standi to file the present suit?OPD
4. Whether the suit is not maintainable in the present form? OPD
5. Whether suit is time barred?OPD
6. Relief.

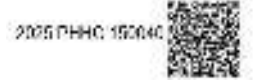
6. Deciding Issues No.1 and 2, Court of the First Instance relied upon Exhibit P4 i.e. plaint filed in the suit titled as 'Jaibir vs. Smt. Chitra', bearing Civil Suit No.1071 of 1989 dated 17.10.1989 and judgment & decree, dated 03.11.1989 holding that defendant No.1 is proved to be adopted son of Chitra, and decreed the suit filed by the plaintiff.

7. Dissatisfied, defendant No.1 preferred appeal.



8. Lower Appellate Court reversed the findings recorded by the Court of the First Instance holding that in the absence of there being any evidence to prove valid adoption of defendant No.1 by Chitra, defendant No.1 cannot be held to be adopted son of Chitra merely on the strength of judgment & decree, dated 03.11.1989. Lower Appellate Court accordingly accepted the appeal and dismissed the suit filed by the plaintiff.

9. Ld. counsel for the appellant has assailed the findings recorded by the Lower Appellate Court. He submits that the Lower Appellate Court erred in discarding the plaint, Exhibit P4 and the judgment & decree, P4/A in Civil Suit No.1071 of 1989. The documents show that defendant No.1 himself claimed to be adopted son of Chitra and succeeded to the estate left by her. Defendant No.1 having himself attained benefit claiming adoption by Chitra, he cannot now be allowed to turn back and plead otherwise. Mr. Yadav has relied upon ratio of law laid down in **Nagiadas Ramdas vs. Dalpatiam Ichharam, Brijram and others, 1997 RCR (Rent) 148, Gautam Sarup vs. Leela Jetly and others, 2008(1) RCR(Rent) 487, Gurbux Singh vs. Bhooralal, 1964 AIR (SC) 1810, Dhan Kaur vs. Major Singh, 1994(3) RRR 106, Michael Mascarenhas and others vs. John Mascarenhas, 1996 AIR (Karnataka) 348, Smt. Chandan Bilasini (dead) by Lr. vs. Aftabuddin Khan and ors, (1996) 1 SCC 197, Mritunjoy Sett vs. Jadunath Basak (D) by Lrs.(2011) 11 SCC 402 and M. Krishna vs. M. Ramachandra and another, 2019 AIR (Karnataka) 188.**

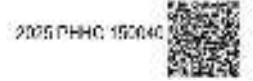


10. Per contra, counsel for the respondent No.1 submits that mere plea raised in the earlier suit by defendant No.1 would not prove him to be the adopted son of Chitra. Reliance is being placed upon Section 42 of the Indian Evidence Act, 1872 (hereinafter referred to as 'the 1872 Act') and ratio of law laid down by this Court in **Natha Singh @ Nathu Singh vs. Jarnail Singh and others, 2012(4) RCR (Civil) 244**, wherein this Court held that mere nomination in the absence of there being any proof w.r.t. ceremony of adoption, does not prove that there was a valid adoption.

11. I have heard counsel for the parties and have gone through records of the case.

12. The issue relates to adoption of defendant No.1 Jaibir by Smt. Chitra.

13. It has been proved on record by the plaintiff by bringing on record Exhibit P4 and Exhibit P4/A that defendant No.1 in Civil Suit No.1071 of 1989 claimed himself to be adopted son of Chitra. The said fact was admitted by Chitra by filing written statement. On the strength thereof, decree was passed. Defendant No.1 succeeded to the estate of Chitra claiming family settlement *qua* her. Defendant No.1 when appeared as DW1 was confronted with the same. His testimony would show that he spoke a white lie before the Court and even denied of having engaged counsel Sh. S.S. Chauhan, though admitted that he enjoyed the benefits and fruits of said decree.

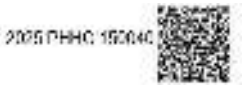


14. In view thereof, this Court finds that once defendant No.1 himself in the earlier *lis* claimed himself to be adopted son of Chitra and he was confronted with the contents thereof, the pleading assumes relevance in terms of Section 33 of 1872 Act. Section 42 of 1872 Act would not be applicable. Similarly, the ratio of law laid down in *Natha Singh @ Nathu Singh's* case (*supra*) is not applicable to the present case. It is not a case wherein the adoption has come out of documents, rather here in the present case, the adoption was specifically pleaded by defendant No.1 himself and the same was admitted by the adoptive mother. Accordingly, this Court finds that defendant No.1 cannot be allowed to dispute adoption once he has already enjoyed the benefits by claiming himself to be adopted son of Smt. Chitra.

15. Needless to say, it is settled proposition of law that under Hindu Law once a person is adopted, his relation with the natural family gets severed and he gets supplanted in the adoptive family. That being so, defendant No.1 has no right, title or interest to succeed to the estate left by Narain, his natural father, but has been rightly held to be entitled to succeed/enjoy the estate left by his adopted mother Smt. Chitra.

16. In view of above, this Court finds that the findings recorded by the Lower Appellate Court cannot be sustained and the same need to be reversed being result of misreading of evidence. The findings recorded by the Trial Court is hereby restored.

17. Resultantly, the appeal is allowed.



18. Pending application, if any, shall also stands disposed off.

October 31, 2025			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No