

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****104****RSA-4898-2017 (O&M)****Date of decision: 10.03.2025****Subhash Chand and another****...Appellant(s)****Vs.****Dharambir and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Jyoti Kumari, Advocate for
Mr. Namit Khurana, Advocate
for the appellants.

NIDHI GUPTA, J.

The plaintiffs are in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit of the appellants/plaintiffs seeking declaration to the effect that Ramandeep is the son of the plaintiffs, and Adoption Deed dated 27.09.2011 is illegal, null and void, has been dismissed by both the Courts below.

At the very outset, it may be pointed out that the present appeal is of the year 2017. However, notice has not yet been issued in the same as the matter has been adjourned multiple times due to non-appearance of learned counsel for the appellants on 04.05.2018, 29.08.2023 and 27.02.2024; and at request of learned counsel for the appellants on 13.02.2020.



The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellants are the 'plaintiffs'; and the respondents are the 'defendants'.

The brief facts of the case as set out in the plaint are that the plaintiffs are husband and wife. About 11 years ago, a son namely Ramandeep was born out of their wedlock and is residing with them since birth. Ramandeep never resided with the defendants; and the plaintiffs never gave Ramandeep in adoption to the defendants. Therefore, the Adoption Deed dated 27.09.2011 is illegal, null and void.

Upon notice, the defendants appeared and filed written-statement stating that the plaintiffs are residing in the city and therefore Ramandeep would have better future prospects in the city if he resides with his parents. In the written statement, the defendants stated that the alleged Adoption Deed was never executed and Ramandeep was never given to them by the plaintiffs. It was alleged that the plaintiffs through fraudulent means, took the thumb-impressions of the defendants on the alleged Adoption Deed on the pretext of arranging loan for the defendants from the bank. It was further stated that through the said Adoption Deed, the plaintiffs are trying to grab the property of defendant No.1 through Ramandeep; and the defendants came to know about the Adoption Deed only upon service of summons. Accordingly, dismissal of the suit was prayed for.

No replication was filed by the plaintiffs.



From the pleadings of the parties, following issues were framed:-

1. Whether Ramandeep is son of the plaintiffs? OPP
2. Whether Adoption Deed dated 27.09.2011 is illegal, null & void and liable to be set aside?OPP.
3. Relief.

Upon appraisal of the pleadings and the evidence led by the parties, issue Nos. 1 and 2 were decided against the plaintiffs and in favour of the defendants; and accordingly, the suit of the plaintiffs was dismissed vide judgment and decree dated 26.02.2015 by the learned trial Court. The appeal filed by the plaintiffs was dismissed by the learned lower appellate Court, vide judgment and decree dated 02.11.2015. Hence, the present second appeal.

Ld. counsel for the appellants/plaintiffs in his arguments has primarily reiterated the submissions/averments made in the plaint. Learned counsel submits that even the defendants had denied the Adoption Deed and, therefore, there was no reason for the Id. Courts below to dismiss the suit of the plaintiffs. It is accordingly prayed that the present appeal be allowed; and the judgments and decrees of the Id. Courts below be set aside.

No other argument is raised on behalf of the appellants/plaintiffs.

I have heard learned counsel for the appellants/plaintiffs and perused the case file in great detail.



Perusal of the record of the case clearly shows that the Adoption Deed dated 27.09.2011 (EX.PA) is a registered document. Needless to say as such, presumption of truth would be attached to the same. Moreover, the record reveals that the said Adoption Deed bears the thumb-impressions/signatures, and photographs of the parents of Ramandeep i.e. the plaintiffs; as well as the adoptive parents of Ramandeep i.e. the defendants. The said Adoption Deed also bears the photograph of the child Ramandeep; and the witnesses who are Khazan Singh/Lambardar of the said village and Basau Ram. As such, the veracity of Adoption Deed (Ex.PA) stands established unequivocally. These facts are not denied by Id. counsel for the plaintiffs.

As per Section 16 of the Hindu Adoption and Maintenance Act, 1956 (hereinafter referred to as 'the Act'), the adoption executed through a registered document is presumed to be in compliance with the provisions of the Act '*unless and until it is disproved*'. In the present case, except for a bald statements made by the parties, no evidence has been led by them to disprove the Adoption Deed. On the contrary, by way of exhaustive evidence as noticed above, the Adoption Deed has been proven in accordance with law. Even the thumb-impressions/signatures of the parties, have not been disproved by evidence of any handwriting expert.

It may further be noticed that Section 15 of the Act stipulates that a valid adoption cannot be cancelled by the adopter/father or mother or any other person. Even apprehension of the defendants that the said adoption was executed merely to grab the property of defendant No.1,



does not hold truth as, Section 13 of the Act mentions that adoption does not deprive the adoptive parents from disposing of their property by transfer inter vivos or by Will.

The relevant findings of the learned lower appellate Court are contained in paras 18, 19, and 20 of the judgment and decree dated 02.11.2015, which read as under: -

“18. To disprove the Adoption Deed Ex.PA, there is statement of the plaintiffs as PW1 and PW2 and admission of the defendants, by way of their pleadings and case put to PWs in cross examination. To the considered mind of this Court, this is not sufficient to upset the Adoption Deed Ex.PA, a registered document. It is shown dated 27.9.2011. It is highly improbable that the defendants would take the signatures of the plaintiffs on blank papers. Further, it is nowhere clarified by the plaintiffs as to what were the circumstances, under which the plaintiffs were duped to give signatures on blank papers. Contra, the defendants in their written statement pleaded that the plaintiffs played fraud upon them and obtained their signatures under pretext of taking loan. So, pleas taken by both sides, are contradictory and not worth reliance. It is unimaginable that both were taken by fraud, having allegedly executed by them against each other. Besides, the plaintiff stated that Ramandeep remained with them and never resided with the defendants. They brought him up. To buttress their oral account, they should have adduced documentary evidence i.e. school record, ration card or any bank statement, showing them recorded as parents of Ramandeep. The plaintiffs withheld the material and important piece of evidence. No independent witness was examined in support of their version. Any respectable person of the area or of Mohalla could have



been examined to support their oral account.

19. *Perusal of Ex.PA on the contrary shows, it bears date, photographs of the parties and they are shown identified by Khazan Singh Numberdar and Basau Ram as witnesses. Their photographs are also on Ex.PA. No plea or explanation is given as to how these persons happened to come and sign Ex.PA.*

20. *The endorsement of Sub Registrar is on Ex.PA, showing that the contents of Ex.PA were read over and made understand to the parties. Again, no explanation is given to rebut such endorsement of Sub Registrar, which has presumption of truth. Persual of Ex.PA shows, all legal formalities were performed as regard giving and taking the child in adoption and valid consent of the parties.”*

Learned counsel for the appellants/plaintiffs is unable to dispute or controvert the above said facts and findings.

Hence, no ground is made out to interfere in the impugned judgments and decrees. The present regular second appeal is hereby **dismissed.**

Pending applications, if any, stand disposed of.

10.03.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No