

2025:PHHC:024641



RSA-5536-2019 (O&M)

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

(112)

RSA-5536-2019 (O&M)

Date of decision:- 20.02.2025

Girish Bhola

...Appellant

Versus

Santosh Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ankush Rampal, Advocate, for
Mr. Rahul Rampal, Advocate, for the appellant.

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SUVIR SEHGAL, J. (Oral)

SUVIR SEHGAL, J. (Oral)

CM-15748-C-2019

1. Delay of 108 days, in re-filing the appeal, is condoned.
2. Application is disposed off.

RSA-5536-2019

3. Appellant/plaintiff is in second appeal before this court challenging the concurrent finding recorded by both the Courts below.
4. Plaintiff filed a suit for declaration to the effect that he is the owner in possession of the movable and immovable properties left behind by Shri Kasturi Lal, deceased, and for rendition of accounts of the partnership firms, in which Kasturi Lal, was a partner, besides seeking relief of permanent injunction restraining the defendant, or her agents, etc., from using or alienating the suit



property. His pleaded case is that he was adopted by the defendant and her husband, Kasturi Lal, vide adoption deed, dated 27.11.1994, and he started living with them. Kasturi Lal died on 03.02.2002, leaving behind the plaintiff and the defendant, as his class I heirs. Plaintiff went abroad for a few years and when he returned, he was abused by the defendant and divested of the property. Upon being served, defendant filed a written statement contesting the suit by taking various preliminary objections. On merits, it was averred that she is the exclusive owner of the property left behind by the deceased. Adoption of the plaintiff was specifically denied. A stand has been taken that the plaintiff's mother was the sister-in-law of the defendant and the plaintiff resided with them as he was pursuing his education. On the basis of pleadings of the parties, issues were framed. After contest, by judgment and decree dated 02.11.2016, Trial Court dismissed the suit. Plaintiff remained unsuccessful before the first appellate Court and his appeal was dismissed by judgment dated 17.11.2018, resulting in the institution of the present appeal.

5. Counsel for the appellant has argued that the deceased was the owner of a residential house, besides being the owner of properties of the partnership firms. He has claimed that the deceased also owned a car, but the appellant had been denied the ownership of the properties despite the fact that he was duly adopted by the deceased and the defendant.

6. I have heard counsel for the appellant and considered his submission.

7. The entire basis of the claim raised by the appellant is adoption deed dated 27.11.1994. However, appellant never stepped into the witness box to



examination-in-chief, Surinder Bhola, PW1, who is the Power of Attorney holder of the appellant has admitted that the deceased, Kasturi Lal, was the owner of ½ share in the residential house, which he sold to the defendant vide sale deed dated 09.01.2015, Ex. D-1. He has also stated in his testimony that the property at Focal Point, Ludhiana, had been sold jointly by the plaintiff and the defendant and that the motor car, which was in the name of the partnership firm, was transferred to the name of one Mohan Lal, from whom defendant had purchased it. It is, therefore, evident that on the day of his death in 2002, deceased did not possess any property.

8. In order to establish a valid adoption, it is for the plaintiff to prove that the essential requirements as enumerated in Section 6 of the Hindu Adoption and Maintenance Act, 1956, which is of a mandatory character, have been satisfied. However, plaintiff has not led any evidence to this effect. Mere production of an adoption deed and ocular evidence in support thereof without any evidence regarding fulfillment of the essential ceremonies, would not discharge the onus placed on the plaintiff. This Court does not find any infirmity or illegality in the findings recorded by the Courts below, which are affirmed.

9. Appeal, being devoid of merit, is dismissed with no order as to cost.

(SUVIR SEHGAL)
JUDGE

20.02.2025
Pardeep

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No