IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.73/2024 a/w
RSA No.75 of 2023
Date of Decision: 16th May, 2025.

1. RSA No.73 of 2024
Gopal Aggarwal .....Appellant

Versus

Leela Devi .....Respondent.

2. RSA No.75 of 2023
Leela Devi ....Appellant

Versus

Gopal Aggarwal ....Respondent.

Coram

The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the Appellant: Mr. Dheeraj K. Vashisht, Advocate, for appellant in RSA No.75 of 2023 and for the respondent in RSA No.73 of 2024.

For the Respondent: Mr. Praveen Chandel, Advocate, for the respondent in RSA No.75 of 2023 and for the appellant in RSA No.73 of 2024.

Bipin Chander Negi, Judge *(oral).*

Both these appeals under section 100 of the Code of Civil Procedure (for short, CPC), have assailed the judgment and decree dated 21.11.2022 passed by the Learned Additional District Judge, Nahan, District Sirmaur H.P. in Civil Appeal No. 63-N/13 of 2022 affirming the judgment and decree dated 26-09-2019 passed by the Learned Senior Civil Judge, Paonta Sahib, District Sirmaur, H.P. in Civil Suit No. 91/1 of 2014. Hence they are being taken up together.

[1] Whether reporters of Local Papers may be allowed to see the judgment? YES

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2.The brief facts of the case are that Shri Mohan Lal, son of Shri Pyare Lal, was a permanent resident of Amarpur Mohallah, Nahan. He later shifted to Paonta Sahib and worked as a Document Writer in the courts there. Mohan Lal purchased land measuring 8 biswas through a sale deed dated 07.04.1993, registered on 13.04.1993, from Smt. Karam Kaur (widow of Shri Nazar Singh), Gurcharan Singh, Nirmal Singh (sons of Shri Nazar Singh), Kumari Hardeep Kaur, Smt. Balbir Kaur, and Smt. Charanjeet Kaur (daughters of Shri Nazar Singh), residents of Village Kunja, Tehsil Paonta Sahib, for ₹17,500/-, comprised in Khata Khatauni No. 67/83, Khasra No. 181, situated at Mauza Kunja. Mohan Lal constructed a house on part of the land and used the remaining portion as a kitchen garden and courtyard. It is submitted that Mohan Lal married Rekha Devi, resident of Village Bhagwan, Tehsil Roorki, District Saharanpur, but the marriage failed, and she left his house permanently to live with her parents.

3.It is further submitted that Mohan Lal had no children of his own, while his brother, Shyam Lal, had three sons and two daughters. Accordingly, Mohan Lal adopted the plaintiff, the youngest son of Shyam Lal and Smt. Bimla Devi, on 31.07.1980. All necessary adoption rites, customs, and ceremonies under Hindu law were performed, including the giving and taking ceremony, making the plaintiff the legally adopted son of Mohan Lal. The plaintiff was raised and educated

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by Mohan Lal, who admitted him to various schools, including Govt. Nursery School, Nahan, Rajkiya Kanya Prathimik Pathshala, Nahan, and later Govt. Sr. Sec. School, Taruwala. In all educational records, Aadhar Card, Identity Card, Driving License, and other documents, Mohan Lal is recorded as the plaintiff's father. Upon Mohan Lal's death on 21.01.2013, the plaintiff performed his last rites, including Braham Bhoj and consigning his ashes to the Ganga at Haridwar. When the plaintiff approached the Patwari for mutation of inheritance, he discovered that mutation had already been entered in favour of the defendant (Rapat No. 507, dated 23.02.2013). The plaintiff contends that the defendant falsely claims to be Mohan Lal's widow, whereas she was merely a maid who later lived with him as a concubine without any legal marriage. The plaintiff asserts that the defendant was previously married to another man and had five children from that marriage, making her ineligible to inherit Mohan Lal's property.

4. The defendant, in her written statement, denies the plaintiff's adoption and claims to be Mohan Lal's legally wedded wife under the Special Marriage Act. She alleges that Mohan Lal had no relations with his family after shifting to Paonta Sahib and that the plaintiff never cared for him during his illness. She further states that Mohan Lal had entered into an agreement to sell the suit property to one Anuj Kumar, which was later cancelled, and the property's value exceeds ₹72,00,000/-,

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making the suit undervalued. She denies that the plaintiff was ever adopted and asserts that she, as Mohan Lal's widow, is the sole legal heir entitled to inherit the property under Section 8 of the Hindu Succession Act

5. The trial court framed the following issues:

1. **Whether Sh. Shyam Lal and his wife Smt. Bimla Devi had given the plaintiff in adoption on 21.07.1980 to Sh. Mohan Lal deceased son of Sh. Pyare Lal and performed all rites, customs and ceremonies at the time of adoption, as alleged? OPP**
2. **Whether the plaintiff has inherited the suit property after the death of Sh. Mohan Lal under Section 8 of Hindu Succession Act, 1956? (OPP)**
3. **Whether the defendant was the widow of late Sh. Mohan Lal and her marriage with late Sh. Mohan Lal was legal and valid marriage? (OPD)**
4. **Whether the defendant was entitled to inherit the suit property after the death of late Sh. Mohan Lal? (OPD)**
5. **Whether the suit is under valued both for the purpose of Court fees and jurisdiction? (OPD)**
6. **Whether the plaintiff has no locus standi to file the present suit? (OPD)**
7. **Whether the plaintiff has no cause of action to file the present suit? (OPD)**
8. **Relief**.

6. The trial court decided Issues 1 and 2 in favour of the plaintiff, issues No.3 and 4 in favour of the defendants and issues No.5 to 7 against the defendant, partly decreeing the suit in favour of both the parties by holding the plaintiff to be adopted son and the defendant to be legally wedded wife.

7. In the aforesaid backdrop, two appeals were filed. One by the plaintiff and other by the defendant. In the appeal, the defendant challenged the trial court's judgment, arguing that the court misconstrued the evidence and failed to appreciate that mere financial support by Mohan Lal did not prove adoption. It was contended that the plaintiff's natural parents

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remained involved in his upbringing, and no registered adoption deed was executed despite Mohan Lal being a legally aware person. The defendant also highlighted discrepancies in the testimony of PW-8, who admitted that no adoption ceremony occurred in his presence and that Mohan Lal visited Nahan only occasionally. The trial court's reliance on school records showing Mohan Lal as the plaintiff's father was criticized as insufficient to establish legal adoption.

8. The plaintiff-Gopal Aggarwal assailed the impugned judgment and decree on the ground that the same was based on conjectures and surmises and argued that defendant-Leela Devi had not adduced any evidence to prove her contention that when she become Leela Devi from Zarina and further argued that she is married with some Anwar from whom she has five children. Moreover, it was contended that she has failed to prove the divorce with Anwar and the marriage certificate obtained from Marriage Registrar, Paonta Sahib is highly doubtful. The defendant-Leela Devi has failed to prove that when she has taken a divorce from Anwar, how she became a Hindu from being a Muslim, how she has married with Sh. Mohan Lal and where their marriage was performed and by which Pandit or Priest.

8. The first Appellate court dismissed both the appeals and upheld the judgement of the Trial Court; therefore, two appeals have been filed one by each party.

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9. Perused the impugned judgement and heard counsel for the Parties.

10. The sole contention raised by the defendant is that there is no proof of valid adoption ceremony qua the plaintiff. The claim of the plaintiff stands substantiated by the testimonies of PW6, who attended the adoption ceremony, the natural mother PW11, Smt. Bimla Devi, and PW8, along with supporting documents such as the school leaving certificate and bona fide certificate.

11. While no formal adoption deed was produced, the conduct of the parties as recognized in **L. Debi Prasad v. Smt. Tribeni Devi (1970 AIR SC 1286)**—establishes the adoptive relationship. I see no infirmity in the finding returned concurrently by both the Courts below. The same calls for no interference. The fact that Gopal Aggarwal is Mohan Lal's son stands confirmed.

12. Regarding Leela Devi's status, she produced a valid marriage certificate (Ex. DW3/A) under the Special Marriage Act. The plaintiff failed to prove his allegation that she was previously married and undivorced. Since the Act does not mandate traditional rituals, the marriage is legally valid. The concurrent finding returned in this respect by both the Courts below in my considered view calls for no interference.

13. Therefore, in the present facts and attending circumstances, for the foregoing reasons, the appeals are

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dismissed being devoid of merit. There arises no question of law much less substantial question of law. The pending miscellaneous application(s), if any, also stand disposed of.

(Bipin Chander Negi)
Judge

16th May, 2025
(T.B/Gaurav Rawat)

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