

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Second Appeal No. 170 of 2005

Shanker Mistry, son of Boudhi Mistry, resident of village-Mali Fasiya,
P.S.-Godda (M), Dist.- Godda. **Appellant**

Versus

1(A) Sri Prasad Sharma
1(B) Hemkant Sharma
Both sons of Late Shiv Narayan Mistry, both resident of village
Ghat Dumaria, P.S.-Godda (M), Dist.-Godda

... .. **Plaintiff/Respondents**

2. Gopal Mistry, son of Sahdeo Mistry, resident of village-Ghat
Dumaria, P.S. Godda (M), District Godda

... .. **Defendant No. 2/Respondent**

For the Appellant:	Mr. Manjul Prasad, Sr. Advocate Mr. Rahul Kr. Gupta, Advocate Mr. Surya Prakash, Advocate Mr. Akhouri Prakhar Sinha, Advocate Mr. Aman Kedia, Advocate
For the Respondents:	Ms. Mridula Thakur, Advocate Mr. Lakhan Chandra Roy, Advocate

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMARSRIVASTAVA

J U D G M E N T

C.A.V. on 10.07.2025

Pronounced on 11/09/2025

Instant second appeal has been preferred by appellant/defendant No.1 being aggrieved and dissatisfied with the judgment and decree passed by First Appellate Court, learned Additional District Judge-VII, F.T.C. No. IV, Godda dated 13.05.2005 passed in Title Appeal No. 09 of 2003 whereby and whereunder the judgment and decree passed by the learned Trial Court has been set aside and appeal was allowed.

2. The original plaintiff Shiv Narayan Mistry has instituted the title suit No. 87/1996-18/1998 claiming following reliefs:

- (a) For declaration that the defendant No. 1 was never adopted by Most. Kaushalya and no ceremony of taking and giving took place and defendant was never transferred to the family of Plaintiff by Kaushalya Devi.
- (b) For declaration that the partition deed No. 3843 dated 24.07.1973 was fraudulently executed and the plaintiff never took part in

execution of the said deed which never came into effect.

(c) For declaration of right, title and confirmation of the possession of the plaintiff over the suit land as legal heir of Most. Kaushalya. If plaintiff is found not in possession of any part of suit land, he may be put into khas possession thereof along with cost of suit and other reliefs which may deem fit.

3. Admittedly, the suit property mentioned in Schedule-A to the plaint was recorded in the name of common ancestor Aghori Mistry who had two sons namely Jalim Mistry and Pancham Mistry. After death of Aghori Mistry, his sons jointly inherited the suit property. Jalim Mistry had one son Kadru Mistry who died issueless leaving behind his widow wife Kaushalya Devi. Pancham Mistry died leaving behind him two sons namely Lalji Mistry and Goverdhan Mistry. The plaintiff Shiv Narayan Mistry is son of Lalji Mistry. Goverdhan Mistry died leaving behind him sole daughter Churani Devi who was married and had one son namely Gopal and one daughter namely Parmeshwari. Shanker Mistry, defendant No. 1 is son of Parmeshwari and Gopal is defendant No. 2.

According to plaintiff, after death of Kadru Mistry, his elder father, he performed his *Sharadh* in the year 1973 and his widow Kaushalya Devi being issueless was looked after by the plaintiff both in her maintenance and cultivation of her landed property. He also performed *Sharadh* of Kaushalya Devi after her death in the year 1976. It is further alleged that Shanker Mistry is sole son of Parmeshwari Devi, who was married with Boudhi Mistry of village Mal Phasia. It is further alleged that in the month of August, 1993, Shanker Mistry who was residing at Mal Phasia came to village of plaintiff i.e. Ghat Dhamsai and started claiming himself to be adopted son of Kaushalya Devi. He also produced a forged and manipulated registered adoption deed dated 23.02.1973 and a partition deed dated 24.07.1973 in respect of family property of Most. Kaushalya Devi. The adoption deed has been challenged on the ground that no ceremony of giving and taking was ever performed. The age of Shanker Mistry on the alleged deed was 20

years and he was also married, therefore, adoption cannot be valid by taking such a child. One Harihar Mistry was doing *Pairwi* on behalf of Churani Devi in the cases and litigations going on in between the plaintiff and Churani Devi (maternal grandmother of Shanker Mistry). Shanker Mistry never resided with Kaushalya Devi and for the first time, in the August, 1993, the plaintiff came to know about the said forged adoption deed which has shaded clouds on the title and possession over the property left by Kaushalya Devi and inherited by him and there was apprehension of forcible dispossession of plaintiff hence this case was instituted.

4. On the other hand, the defendant No. 1 Shanker Mistry appeared, contested the suit by filing his written statement and specifically pleaded that Parmeshwari had two sons out of her wedlock with Boudhi Mistry, elder son was Umesh and younger son was Shanker Mistry. Umesh died in the year 1976 as such he was alive at the time of adoption of Shanker Mistry. It is further stated that at the time of adoption, Shanker Mistry was only aged about 8 years since Kaushalya Devi was widow and issueless, hence, she adopted Shanker Mistry through registered deed of adoption as her son. Kaushalya Devi was in possession of landed property inherited from her husband which was being cultivated and looked after by the adopted child Shanker Mistry. The defendants have also denied any litigation between plaintiff and Most. Churani Devi. The plaintiff never resided and looked after the property of Kaushalya Devi rather both were under litigating terms. It is further stated that Kaushalya Devi died in the year 1984 not in 1976 as pleaded by the plaintiff. It is also pleaded by defendants that due to paucity of funds, some portion of disputed property was mortgaged through registered deed of mortgage No. 2504 dated 03.08.1984 by the defendant No.1 to meet out the expenses of *Sharadh* of Kaushalya Devi and some lands were also mortgaged by Kaushalya Devi herself through deed No. 2081 dated 25.05.1979. The defendant No. 1 was adopted on the occasion of *Maghi Poornima* by Kaushalya Devi and since the date of adoption, defendant

No. 1 was residing with her. Most. Kaushalya was also earning old age pension under the Government Scheme till 04.08.1983. It is further alleged that plaintiff himself was present at the time of giving and taking ceremony of adoption. Pandit Jagarnath Upadhyay was Purohit. It is also specifically denied that the plaintiff came to know about the alleged registered adoption deed in the month of August, 1993. In the Revenue Record also, the name of defendant No. 1 is entered along with Most. Kaushalya Devi. Therefore, suit of the plaintiff is fit to be dismissed with cost.

5. On the basis of the pleadings of the parties, following issues were settled by learned Trial Court for adjudication:

- (i) Is the suit as framed maintainable?
- (ii) Is the suit bad for non-joinder or mis-joinder for parties?
- (iii) Was Shankar Mistry legally and validly adopted son of Most. Kaushalya and is the adoption deed No. 91 dated 23.02.1973 illegal, inoperative and invalid.
- (iv) Has the plaintiff valid title to the suit land and is he in possession of the same.
- (v) To what relief or reliefs, the plaintiff is entitled.

6. The learned trial Court has taken Issue No. (iii) as vital issue in this case and after evaluating the oral as well as documentary evidence adduced by the parties, particularly, the oral testimony of D.W.-7 defendant No. 1 himself Shanker Mistry and documentary evidence of defendants i.e. **Exhibit-B** (Laal (Red) Card dated 10.06.1998 which is in the name of Shanker Mistry, S/o Kadru Mistry, Village Ghat Dumariya), **Exhibit-C** (*Haal* Survey of *Tasdik Parcha*), **Exhibit-C/a** (Jamabandi No. 2 which is in the name of Kadru Mistry), **Exhibit-C/b** (*Parcha* of Jamabandi No. 4 in the name of Kadru Mistry), **Exhibit-D** (Voter List of the year 1995), **Exhibit-E** (Certified copy of Order dated 5.6.1997 passed in Case No. 74 of 1976 by Executive Magistrate, Godda) and **Exhibit E/a** (Certified Copy dated 18.12.1995 passed by S.D.O, Godda in Cr. Mis. Case No. 1096 of 1995) and arrived at conclusion that

defendant No. 1 was validly adopted by Most. Kaushalya and is her adopted son through registered deed dated 23.02.1973.

7. The learned Trial Court has decided other issues i.e. (i), (ii), (iv) and (v), according to the result of issue No. (iii). Which is self-sufficient to prove the other issues against the plaintiff and accordingly, dismissed the suit of the plaintiff on contest with cost.

8. The plaintiff preferred an appeal challenging the judgment and decree of learned Trial Court vide title appeal No. 09/2003.

9. The learned First Appellate Court has proceeded to decide all the issues settled by the learned trial Court on the basis of evidence available on record.

10. As regards, issue no. (iii). After re-appreciating oral as well as documentary evidence adduced by the parties arrived at conclusion that the defendant No. 1 in this case has not proved the original adoption deed before the learned trial Court. Though, certified copy of said adoption deed was filed there. The original adoption deed has been filed before the appellate Court on demand for perusal. On perusal of the same, it transpires that this registered adoption deed was knowingly and purposely not proved before the lower Court. In the adoption deed, the minor adoptee Shanker Mistry is one of the parties who is not represented by any legal or natural guardian. Hence, the registered adoption deed is *void ab initio*. It was also observed that surprisingly enough, the learned Trial Court even on the petition of the plaintiff/appellant did not mark this certified copy of adoption deed as Exhibit on admission and refused the prayer vide order dated 03.09.2001. Since the defendant has also not proved the said registered adoption deed as stated in his pleading so presumption under section 16 of the Hindu Adoption and Maintenance Act, 1956 will not be attracted in this case and the onus strictly lies on the defendant first party to prove the factum of adoption by adducing sufficient evidence. It was also held that that defendant has failed to prove the date and time of giving and taking ceremony of the adopted child. The learned first appellate Court

also observed that on the basis of evidence adduced by parties recorded findings that on the date of adoption, the adopted child was more than fifteen (15) years old, therefore, he was not capable to be adopted. Finally, the learned appellate court concluded at paragraph 24 of the judgment that the burden of proving the adoption through sufficient evidence lies on the propounder. The testimony of natural father of the adopted son (D.W.-6) does not find corroboration from any independent source even from the witness who was alleged to be present at the time of adoption ceremony. The defendant has also failed to prove his age to be eight (8) years, on the date of adoption. Therefore, factum of adoption has not been proved by sufficient evidence and the learned trial Court erroneously arrived at conclusion that the adoption was legal and valid merely on the basis of oral evidence of D.W.-6 without producing the original deed of adoption. Therefore, set aside the findings of learned trial Court on issue No. (iii) and decided the same in favour of appellant/plaintiff (respondent herein)

11. Learned appellate Court has also decided the issue No. (iv). It was found that the plaintiff is agnate of Most. Kaushalya Devi who died issueless and since the adoption has not been found valid, therefore, plaintiff has right to succeed the property left by Kaushalya Devi along with defendant No. 2 who is uncle of the plaintiff, therefore, it was found that the plaintiff has valid title on the lands left by Most. Kaushalya up to extent of his share in the property left by her.

12. As regards, issue No. (ii). The same was not pressed by the parties. It was also decided in favour of plaintiff.

13. As regards, issue No. (i) and (v). On the basis of above vital issues, it was held that the suit as framed is maintainable and plaintiff is entitled for the relief as claimed to the extent of his share in the suit property as discussed above. Accordingly, the impugned judgment and order of learned Trial Court was set aside and appeal was allowed.

14. The present second appeal has been preferred by the sole appellant/defendant No. 1 which has been admitted vide order dated

15.01.2010 on the following substantial questions of law: -

- (i) Whether the learned Court of appeal below erred in throwing burden of proof on the defendant that the adoption deed was registered, which carries presumption of correctness and genuineness with it?
- (ii) Whether the learned Court of appeal below seriously erred in ingoing important documentary evidence viz. Ext. no. B, C, D/a, C/b, D, E and E/a which clearly established that Shanker Mistry defendant No. 2 exercising his all right with respect to land of Kausalya Devi as his son and thus erred in reversing the judgment and decree of the learned trial Court?
- (iii) Whether the finding of the learned Court of appeal below on issue no. 3 holding the adoption registered deed as void ab-initio on the ground that the minor Shanker Mistry the adopted son was not represented through any legal and natural guardian is erroneous, whereas the plaintiff in the Court below had filed an application for making the certified copy of the adoption deed and the same was refused vide order dated 3.9.2001?

15. Before proceeding to adjudicate the substantial questions of law, it is desirable to extract the relevant provisions of Hindu Adoption and Maintenance Act, 1956 for proper appreciation of the case which are as under: -

“5. Adoptions to be regulated by this Chapter. —

(1)No adoption shall be made after the commencement of this Act by or to a Hindu except in accordance with the provisions contained in this Chapter, and any adoption made in contravention of the said provisions shall be void.

(2)An adoption which is void shall neither create any rights in the adoptive family in favour of any person which he or she could not have acquired except by reason of the adoption, nor destroy the rights of any person

in the family of his or her birth.

6. Requisites of a valid adoption.—No adoption shall be valid unless—

- (i) the person adopting has the capacity, and also the right, to take in adoption;
- (ii) the person giving in adoption has the capacity to do so;
- (iii) the person adopted is capable of being taken in adoption; and
- (iv) the adoption is made in compliance with the other conditions mentioned in this Chapter.”

“7. Capacity of a male Hindu to take in adoption.—Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption:

Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”

Explanation.—If a person has more than one wife living at the time of adoption, the consent of all the wives is necessary unless the consent of any one of them is unnecessary for any of the reasons specified in the preceding proviso.”

“8. Capacity of a female Hindu to take in adoption.—Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”

“9. Persons capable of giving in adoption.—(1)No person except the father or

mother or the guardian of a child shall have the capacity to give the child in adoption.

(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption:

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.]

*(3)******

(4) Where both the father and mother are dead or have completely and finally renounced the world or have abandoned the child or have been declared by a court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the court to any person including the guardian himself.

(5) Before granting permission to a guardian under sub-section (4), the court shall be satisfied that the adoption will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child having regard to the age and understanding of the child and that the applicant for permission has not received or agreed to receive and that no person has made or given or agreed to make or give to the applicant any payment or reward in consideration of the adoption except such as the court may sanction.

Explanation.—For the purposes of this section—

(i) the expressions “father” and “mother” do not include an adoptive father and an adoptive mother;

(ia) “guardian” means a person having the care of the person of a child or of both his person and property and includes—

(a) a guardian appointed by the will of the child's father or mother, and

(b) a guardian appointed or declared by a court; and

(ii) “Court” means the city civil court or a district court within the local limits of whose jurisdiction the child to be adopted ordinarily resides.”

“10. Persons who may be adopted.—No person shall be capable of being taken in adoption unless the following conditions are fulfilled, namely:—

(i) he or she is a Hindu;

(ii) he or she has not already been adopted;

(iii) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption;

(iv) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.”

“11. Other conditions for a valid adoption.—In every adoption, the following conditions must be complied with:—

(i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption;

(ii) if the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption;

(iii) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;

(iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted;

(v) the same child may not be adopted simultaneously by two or more persons;

(vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth [or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up] to the family of its adoption:

Provided that the performance of dattahomam shall not be essential to the validity of an adoption.”

“12. Effects of adoption.—*An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family:*

Provided that—

(a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth;

(b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth;

(c) the adopted child shall not divest any person of any estate which vested in him or

her before the adoption.”

....

“16. Presumption as to registered documents relating to adoption.—*Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”*

16. The first substantial question of law as relied upon by learned counsel for the appellant regarding burden of proof of the adoption in this case, it is stoutly argued that the learned first appellate court has wrongly shifted the burden of proof of the adoption upon the defendant/appellant.

In the instant case, the admitted position is that both parties are decedents of common ancestor i.e. Aghori Mistry who left behind him two sons namely Jalim and Pancham Mistry. Jalim died leaving behind him one son namely Kadru Mistry whose widow was Kaushalya Devi who died issueless. Now the landed property of Kadru Mistry by way of natural course of succession would devolve to his brother Pancham Mistry and his decedents. It is also admitted that Pancham Mistry had two sons namely Lalji and Goverdhan. Original Plaintiff was the son of Lalji Mistry and the defendants are decedents of Goverdhan Mistry through daughter Churani Devi as Goverdhan had no son. Both the defendants are son and great grandson of Churani Devi. The effect of adoption of Shanker Mistry excludes original plaintiff from succeeding the landed property left by Kadru Mistry.

17. In the case of ***Rahasa Pandiana (dead) by LRS vs. Gokul Nanda Panda, AIR 1987 SC 962***, the Hon’ble Apex Court has observed that since the adoption divert the normal and natural course of succession, the Court must be extremely alert and vigilant to guard against being

ensnared by scammers who indulge in unscrupulous activities. If there are any suspicious circumstances, the burden is on one who claims to have been adopted to dispel the same beyond reasonable doubt. In a case of an adoption which is not supported by a registered document or any other evidence of a clinching nature if there exist suspicious circumstances, the same must be explained to the satisfaction of the conscience of the Court by the party contending that there was an adoption.

18. In ***Pentacota Satynarayna & Ors. Vs Pentakota Seethavatnam & Ors., AIR 2005 SC 4362***. The Apex Court referred to the heavy onus that lies upon a person who sets out of a case of adoption and observed that while considering the question whether an adoption is genuine or not, the propounder is obliged to dispel the cloud of suspicion and must satisfy the conscience of the Court about such an adoption.

19. In the case of “***Addagada Raghavamma & Anr. Vs. Addagada Chenchamma & Anr., AIR 1964 SC 136***” and “***Kishori Lal vs. Mst. Chaltibai, AIR 1959 SC 504***”, it was observed that an adoption must be proved like a fact. It is essential to the validity of adoption that the ceremony of “giving and taking” must be proved by the propounder.

20. In the instant case, it was incumbent upon the defendant to bring on record the original registered adoption deed and also to prove that the “giving and taking” ceremony has actually taken place and the child was given in adoption by his natural father with the consent of mother of the child which was accepted by the adoptive mother or father, as the case may be. It appears that the learned Trial Court proceeded to decide the validity of adoption only on the basis of oral evidence of the parties. It did not find fit to require the original deed of adoption to be proved in the evidence which attaches a presumption of law. The result was that neither party has brought on record the adoption deed although certified copy of it was filed by the plaintiff but not marked as Exhibit and the defendant produced the original copy of adoption deed on demand by the appellate Court for perusal at the appellate stage and also no prayer was

made for bringing the adoption deed on record. The learned first appellate Court who had an opportunity to see the original adoption deed has observed that it is directly executed in favour of the minor child and not through his natural father or any legal guardian. The giving and taking ceremony are alleged to have taken place on the same day of registration of adoption deed but oral testimony of witnesses has completely failed to prove the same to the judicial conscience of the Court. It has also been observed that the defendant never resided with his alleged adoptive mother Kaushalya Devi rather she was being looked after by the plaintiff throughout her life including her *Sharadh* ceremony.

21. In view of the above scenario of this case, the heavy burden of proof lies upon the defendant to prove the genuineness of the adoption in his favour which has effect of displacing the natural course of succession. Therefore, there appears no illegality throwing the burden of proof on the defendant by the first appellate court. Therefore, I do not find any legal substance in the above first substantial question of law raised on behalf of the appellant which is decided negatively against the appellant.

22. The next substantial question of law relied upon by the appellant is related to non-consideration of the documentary evidence of the defendant/appellant, particularly, Exhibit B, C, D, and E(series).

23. Now, I proceed to consider the documentary evidence of defendant/appellant i.e. Exhibit-B which is the *Laal Card* issued on 10.06.1998 in the name of Shanker Mistry, son of Kadru Mistry. In this document also, Shanker Mistry not shown as adoptive son. Exhibit-B/a is Old Age Pension Passbook of Most. Kaushalya Devi which shows that she has received pension till 04.08.1983. Exhibit-C is correction slip in *Hall Survey Parcha* including the name of Shanker Mistry as son of Kadru Mistry, Gopal Mistry along with Shiv Narayan Mistry (plaintiff) but this document is not issued by any competent authority and does not bear signature of any officer bearer to be certified copy from the Government record. Exhibit C/a is C/C of Jamabandi No. 2 which is in

the name of Kadru Mistry, Lalji Mistry (father of plaintiff) and Goverdhan Mistry which is apparently not in favour of Shanker Mistry as adoptive son of Kadru Mistry. Exhibit-C/b is recent Survey *Parcha*, pertaining to land of Jamabandi No. 4 in which also name of *Raiyats* are Kadru, Jalim, Lalchand Mistry, Goverdhan Mistry and it does not include the name of Shanker Mistry as adoptive son of Kadru Mistry. Exhibit-D is the copy of electoral role of Gooda Assembly Constituency for the year 1995 wherein at Sr. No. 538, Shanker Mistry son of Kadru Mistry finds place but there is no whisper as adoptive son. Exhibit-E is the C/C of Order dated 5.6.1997 passed in T.R. No. 74 of 1996 whereby a proceeding under Section 107/16 was shown in between Shiv Narayan Sharma and Sikandra Nadaf & Ors. Exhibit-E/a is the copy of order dated 18.12.1995 passed in Cr. Misc. Case No. 1096 of 1995 whereby a proceeding under Section 144 Cr.P.C. vide order dated 18.12.1995 and the same was dropped vide order dated 20.02.1996 due to lapse of 60 days from the date of passing the preliminary order.

All the above documentary evidence of appellant/defendant adduced during trial have no bearing upon the genuineness of adoption and these documents are not evidence of exercising rights in respect to lands of Kaushalya Devi as her adoptive son. It is settled law that adopted son or daughter have no vested right in the landed property of adoptive mother or father only by virtue of registration of adoption deed. Such adoptive child has no exclusive right to mortgage or otherwise charge the property of adoptive mother or father, as the case may be. The adopted child has the right to inheritance only after death of adoptive mother or father as the case may be. Therefore, any attempt made by the appellant/defendant for correction in the Jamabandi including his name during lifetime of his alleged adoptive mother has no legal consequences.

24. In view of the specific findings recorded by me in respect of substantial questions of law No. (i) and (ii), as a necessary corollary, the answer of third substantial question of law has also been given and there

appears no necessity to record further finding regarding validity of the adoption deed involved in this case which was never brought on record and proved by the defendant/appellant.

25. In view of the above discussion and reasons, I find that this appeal involves no substantial question of law as formulated in this appeal. I further find that the learned trial Court has misdirected itself while appreciating the evidence on record as regards adoption deed created in favour of defendant only on the basis of oral evidence of the parties. Therefore, the first Appellate Court has rightly and with sound reasons differed with the reasonings of the learned Trial Court and decided all the issues afresh on the basis of evidence available on record. The first appellate Court has rightly disbelieved the execution of any adoption deed in favour of defendant No. 1 Shanker Mistry in accordance with law. It was also found that the plaintiff has also succeeded the right, title and interest to the extent of his share in the property left by Kadru Mistry.

26. I do not find any illegality or infirmity in the impugned judgment and decree passed by learned First Appellate Court calling for any interference in this appeal. This second appeal appears to be devoid of merits and accordingly, **the same is dismissed**. Both the parties shall bear their own cost.

27. Pending I.A.s if any, stands disposed of.

28. Let a copy of this judgment along with the trial/appellate court record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated 11/09/2025
Basant/N.A.F.R.