



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil First Appeal No. 458/2016
CNR: RJHC020180452016 | URN: CFA / 772U / 2016

1. State of Rajasthan through District Collector, Bharatpur
2. District Education Officer (Secondary Education), Near Central School, Bharatpur

----Appellants

Versus

1. Madan Mohan adopted S/o Ninyanve Singh, R/o Dhaurmui, Tehsil Bharatpur, Distt. Bharatpur Rajasthan
2. Ramkishore S/o Kare Singh,
3. Mahendra S/o Kare Singh,
4. Guddu S/o Kare Singh,
All R/o Dhaurmui, Distt. Bharatpur Rajasthan

----Respondents

For Appellant(s)	:	Mr. Abhishek Sharma Ms. Pooja Sharma for Mr. Manoj Sharma, AAG
For Respondent(s)	:	Mr. Jai Kishan Yogi Mr. Yenu Satyan

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

18/08/2026

1. The present appeal has been filed by the appellants, assailing the judgment and decree dated 04.07.2015 passed by the learned Additional District Judge No.2, Bharatpur in Civil Suit No.33/2013, whereby the suit filed by the plaintiff-respondent for declaration as adopted son of *Shri Ninyanve Singh* has been decreed.
2. Facts germane to the present first appeal, briefly, are that the plaintiff instituted the suit on 07.08.2013 seeking declaration that he is the adopted son of late *Shri Ninyanve Singh* and *Smt. Vidya Devi*. It was pleaded that the plaintiff was born on 01.03.1989 to his natural parents, namely, *Shri Devicharan* and *Smt. Shakuntala*. Since *Shri Ninyanve Singh* and his wife had no



child, they expressed their desire to adopt the plaintiff at the time of his birth, whereupon his natural parents gave him in adoption to them and after adoption, all ties of the plaintiff with the family of his natural parents stood severed. It was further pleaded that the ceremony of adoption was performed in the presence of the parties' kith and kin and other relatives and that, ever since the adoption, the plaintiff had been residing with his adoptive parents and remained under their care and guardianship. It was further pleaded that, although no written document was executed at the time of the alleged adoption, but subsequently, an adoption deed was registered on 17.05.2004.

2.1 It was also averred that *Shri Ninyanve Singh* was serving as a Class-IV employee at Government School, Dhormui, Bharatpur, and died on 20.04.2006. After the death of *Shri Ninyanve Singh*, the plaintiff submitted an application seeking appointment in his place on compassionate grounds. However, the authorities did not grant such appointment. Consequently, the present suit was instituted, seeking a decree for declaration.

3. Thereafter, defendant Nos. 1 and 2 filed their written statement on 27.11.2013, contended that *Shri Ninyanve Singh* died on 20.04.2006 and that the plaintiff had attained majority in the year 2007. However, even after the death of *Shri Ninyanve Singh* and after attaining majority, the plaintiff did not initiate any proceedings claiming to be his adopted son or seeking any benefit on the basis of such alleged adoption.

3.1 It was further contended that no registered adoption deed had been produced by the plaintiff; and that no cause of action



had accrued in his favour. On these grounds, dismissal of the suit was prayed for.

4. Defendant Nos. 3 to 5, in their written statement dated 11.03.2014, contended that the suit had been instituted with the sole object of securing appointment under the State Government on compassionate grounds in place of late *Shri Ninyanve Singh* and was, therefore, liable to be dismissed. It was specifically denied that the plaintiff had ever been taken in adoption by *Shri Ninyanve Singh* and *Smt. Vidya Devi* in accordance with the requisite customs and ceremonies.

4.1 It was contended that merely bringing up the plaintiff, making arrangements for his education or otherwise taking care of him could not, by itself, give rise to an inference or presumption that he had been validly given in adoption. On these grounds, dismissal of the suit was sought.

5. On the basis of pleadings of the parties, the learned Trial Court framed the following issues on 01.07.2014:-

1. आया वादी दिनांक 17.05.04 को पंजीकृत निष्पादित गोदनामा के आधार पर मृतक निन्यानवे सिंह का दत्तम पुत्र घोषित किये जाने का अधिकारी है ?
—वादी
2. आया वादी प्रतिवादीगण के विरुद्ध स्थायी निषेधाज्ञा की आज्ञापति प्राप्त करने का अधिकारी है?
—वादी
3. आया दावा मियाद बाहर है?
—प्रतिवादीगण
4. अनुतोष?

6. In order to support his contentions, the plaintiff examined himself as PW-1 *Madan Mohan*, PW-2 *Smt. Shakuntla* and exhibited documents i.e. Ex.1-Original adoption deed, Ex.2-Certified copy of the order of the Rajasthan High Court, Ex.3-Application dated 09.10.2010, Ex.4- Photocopy of the application



dated 09.10.2010, Ex.5-Registry receipt, Ex.6-Application dated 20.02.2010, Ex.7-Registry receipt, Ex.8-Notice, Registry receipts Ex.9 and Ex. 10.

7. In rebuttal, the defendants examined DW-1 *Siyaram Faujdar*.

8. After hearing arguments of the respective parties, learned trial Court, vide impugned judgment and decree, decided all the issues in favour of the plaintiff and granted a decree declaring the plaintiff to be adopted son of *Shri Ninyanve Singh*.

9. Being aggrieved of which, the appellants have preferred the present first appeal.

10. Learned counsel for the appellant submits that the impugned judgment and decree has been obtained by the plaintiff only to secure the compassionate appointment after the death of *Shri Ninyanve Singh*, whereas the plaintiff was never gone in adoption. He further submits that the learned Court below failed to appreciate that the registration of the alleged adoption deed is grossly delayed and that the plaintiff has failed to produce any cogent evidence to prove that the ceremonies for adoption were performed and his averment that he was residing with *Shri Ninyanve Singh* from the time of his birth. He lastly submits that the service record of *Shri Ninyanve Singh* is completely silent about the alleged adoption of the plaintiff. He therefore, the impugned judgment and decree is unsustainable in the eye of law and liable to be set aside.

11. *Per contra*, learned counsel of the respondent vehemently opposed the said submissions and submits that the defendant-appellants have no *locus* to file the present appeal as declaring plaintiff as adopted son of *Shri Ninyanve Singh* nowhere affects



any right of the present appellant. He further submits that the impugned judgment and decree has been passed after due appreciation of pleadings and evidence led by the parties. Therefore, no interference is required by this Court in the present appeal.

12. Heard learned counsel for the parties and perused the material available on record.

13. A bare perusal of the pleadings and evidence available on record reveals that the plaintiff has instituted a suit seeking declaration that he is the adopted son of late *Shri Ninyanve Singh* and *Smt. Vidya Devi* and has pleaded that he was born on 01.03.1989 to *Shri Devicharan* and *Smt. Shakuntala* and that, as *Shri Ninyanve Singh* and *Smt. Vidya Devi* had no child, the plaintiff was given in adoption to them immediately after his birth. The plaintiff has further asserted that the requisite ceremonies were performed in the presence of the relatives and that, thereafter, he continuously resided in the family of *Shri Ninyanve Singh* and *Smt. Vidya Devi*.

14. The aforesaid aspect is also supported by the oral evidence led by the plaintiff. From the statements of the plaintiff i.e. PW-1 *Madan Mohan* and PW-2 *Smt. Shakuntala*, it is evident that the natural parents of the plaintiff, namely, *Shri Devicharan* and *Smt. Shakuntala*, had given the plaintiff in adoption to *Shri Ninyanve Singh* soon after his birth. Their testimony further supports the plaintiff's case regarding performance of the customary ceremonies at the time of adoption and his subsequent residence in the family of *Shri Ninyanve Singh*.



15. It is relevant that PW-2 *Smt. Shakuntala*, being natural mother of the plaintiff, is a material witness with regard to the factum of adoption. Her testimony duly supports and corroborates the plaintiff's case that he was given in adoption.

16. Further, it is significant to note that the registered adoption deed dated 17.05.2004 has not been challenged till date. There is nothing on record to show that the said adoption deed has been cancelled, annulled, declared invalid or otherwise rendered ineffective by any competent court. Thus, the adoption deed continued to remain a valid and subsisting document. The plaintiff, therefore, was justified in placing reliance upon the said registered adoption deed in support of his claim of adoption.

17. The primary contention raised by the appellants is that the suit was instituted only with a view to obtaining compassionate appointment after the death of *Shri Ninyanve Singh* and therefore, the claim of adoption ought not to have been accepted.

18. During the course of arguments, it has transpired that the plaintiff-respondent had instituted *S.B. Civil Writ Petition No. 8018/2019* seeking compassionate appointment to the post of Class-IV employee being the adopted son of the deceased government employee. However, the said writ petition came to be dismissed by a Co-ordinate Bench of this Court vide order dated 04.04.2023, holding that the plaintiff was not entitled to claim compassionate appointment after such a long lapse of time. In view thereof, the contention of learned counsel for the appellant that the present suit for declaration was instituted solely with a view to seeking compassionate appointment cannot be accepted and is devoid of merit.



19. Therefore, considering the overall facts and circumstances of the case as well as the foregoing discussion, this Court finds that the learned trial Court, after duly considering the pleadings of the parties and examining the evidence on record, has rightly passed the impugned judgment and decree and that the same does not suffer from any perversity or legal infirmity so as to warrant any interference of this Court under Section 96 of CPC.

20. Accordingly, the present civil first appeal fails and is hereby dismissed.

21. All other pending application(s), if any, stand disposed of.

(MANEESH SHARMA),J

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