

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****Date of Decision : February 10, 2025  
RSA No.3573 of 2018****Jangir Singh (since deceased) through LRs** . . . . **Appellant**  
Vs.Bhupinder Singh and others . . . . **RESPONDENTS**

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**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:-** Mr. Sanjeev Gupta, Advocate for the appellant.**DEEPAK GUPTA, J.**

Suit for declaration filed by plaintiff – Jangir Singh (*through his LRs*) was dismissed by the trial Court on 17.03.2014. During pendency of the suit, said Jangir Singh had expired and his LRs were brought on record. Different LRs of Jangir Singh brought two separate appeals against the judgment of the trial Court. Both those appeals were heard together and were dismissed by the First Appellate Court on 12.05.2017, thus, affirming the judgment of the trial Court. Against these concurrent findings, some of the LRs of plaintiff – Jangir Singh have approached this Court by way of present regular second appeal.

2. Ld. counsel for the appellants has been heard and paper-book perused.

3.1 It is not in dispute that Mukhtiar Singh was owner of the suit property. He was married to Surjit Kaur. They did not have any natural issue. Plaintiff – Jangir Singh is real brother of Mukhtiar Singh and it is claimed by him that after the time of death of Mukhtiar Singh and his wife Surjit Kaur, he was the only legal heir and so, he is entitled to inherit the suit property. He challenged the adoption deed dated 13.10.1993, whereby defendant No.1 – Bhupinder Singh (*respondent N: 1 herein*), natural son of defendant No.2 –

Sukhdev Singh (*respondent N: 2 herein*) was shown to have been adopted by Mukhtiar Singh. He also alleged mutation Nos.7471, 8286 and 8740 regarding succession of Mukhtiar Singh and Surjit Kaur to be null and void.

3.2 Contesting the suit, defendants claimed that plaintiff has no right to challenge the adoption of Bhupinder Singh – defendant No.1, who was adopted by Mukhtiar Singh. During his life time, said Mukhtiar Singh and that after his death, he or his wife never challenged the adoption. After death of Mukhtiar Singh, mutation of inheritance was sanctioned in favour of said Bhupinder Singh and her adoptive mother Surjit Kaur.

3.3 Necessary issues were framed. Evidence produced by the parties was taken on record. The trial Court dismissed the suit vide judgment dated 17.03.2014 and the Appellate Court affirmed the findings.

4. It is contended by learned counsel for the appellant that adoption deed (Ex.D1) was not a valid document because Mukhtiar Singh never took consent from his wife Surjit Kaur while adopting defendant No.1 – Bhupinder Singh. It is also contended that no cogent evidence was produced regarding the ceremonies of giving and taking as required under Section 11 of the Hindu Adoption and Maintenance Act, 1956 and therefore, the Courts below have not properly appreciated the evidence on record.

5. It will be relevant to reproduce the observations made by the First Appellate Court:-

“20.The legal position as argued by the learned counsels for the appellants is that adoption without consent of living wife is not valid by virtue of Section 7 of Hindu Adoption and Maintenance Act and unless and until necessary requirements and conditions of Sub Section (vi) of Section 11 are shown to be fulfilled and further no adoption ceremonies were held nor there was compliance of provisions of Section 7 and 9 of the Hindu Adoption and Maintenance Act and as such, no adoption could be inferred and further actually giving and taking ceremonies must be proved is not disputed and the observations as made by Hon'ble High Courts as well as Hon'ble Apex Court on this point are also not disputed, but, the arguments raised by

learned counsels for the appellants and law cited is not applicable to the facts of the present case especially in the circumstances that as per the provisions of Hindu Adoption and Maintenance Act, any male 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 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 and in the instant case, it is mandatory to take the consent of the wife, who was living with the husband at that time. The adoption deed Ex.D1 is a registered one and duly proved on record. Though, it is not specifically recited in Ex.D1 that Mukhtiar Singh has obtained the consent of his wife, but, it is impliedly there especially in the circumstances when deed of adoption Ex.D1 is dated 13.10.1993 and the concerned person i.e. Mukhtiar Singh, husband of Surjit Kaur died on 13.10.1996 and perusal of the file further reveals that mutation of inheritance of deceased Mukhtiar Singh has been sanctioned in favour of Bhupinder Singh defendant No.1 and Surjit Kaur in equal shares and during the life time of Surjit Kaur, who died in the year 2002, she has never challenged the adoption deed nor she raised any objection before any authority that her husband has adopted defendant No.1 without her consent. She has never filed any application before any authority challenging the adoption deed which has been proved on record as Ex.D1 and even thereafter when Mukhtiar Singh died on 13.10.1996 and mutation of inheritance has been sanctioned to the extent of half share in favour of adopted son and half share in favour of Surjit Kaur, who also remained alive till 2002 and she never challenged the mutation during her life time. Otherwise also, this adoption deed has been given effect to and all the documents placed on record by Bhupinder Singh i.e. his fifth standard pass certificate as Ex.D10, middle standard pass certificate as Ex.D11, matriculation certificate as Ex.D12, +2 (12th standard) pass certificate as Ex.D13 and name of the parents of respondent No.1 in the certificates has been mentioned as Mukhtiar Singh and Surjit Kaur being father and mother and there is also ration card Ex.D15 showing Bhupinder Singh to be of the age of 08 years and he has been mentioned as son of Surjit Kaur. The matter does not end here, as Surjit Kaur has obtained a loan from the bank and he

has duly discharged his liability by paying the same and nobody except Bhupinder Singh defendant No.1 has paid back the loan as proved on record vide Ex.D14. Another document Ex.D14 is a Card for the Bhog Ceremony of Surjit Kaur and Bhupinder Singh is shown to be her son. The perusal of the file further reveals that a suit has been filed for recovery against Bhupinder Singh being adopted son of Surjit Kaur titled as State Bank of India Vs. Bhupinder Singh and others, wherein, a statement has been made by learned counsel for plaintiff vide Ex.D4, that the defendants have repaid the loan amount and there being nothing due towards them, he did not want to proceed with the same and wanted to withdraw the same. Said suit was dismissed on the basis of above statement of counsel for plaintiff in that suit vide order Ex.D5 and subsequently document Ex.D14 was issued in regard to payment having been made by Bhupinder Singh to the bank.

21. As far as the proving of the document Ex.D1, the deed of adoption, is concerned, it stands duly proved on record as its scribe has been examined and witness has also been examined and more so, the document is also a registered one and as per the provisions of Section 16 of Hindu Adoption and Maintenance Act, which reads to the effect that 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. Further as held by our own Hon'ble High Court as well as other Hon'ble High Courts and the Hon'ble Apex Court, there is presumption to a registered document under Section 16 of the Hindu Adoption and Maintenance Act and as such Section 16 of the Act gives shelter to the registered document and if there is a registered document relating to adoption, the presumption shall be drawn in favour of adoption and it is then for the other side to disprove that adoption has been made under the Act. The presumption has to be disproved by the other party by leading cogent evidence in rebuttal. When no such evidence is led, the legal presumption remains unaffected not having been disproved. There is no option left to the Court and it is bound to take the fact as proved until evidence is given to disprove it and the party interested in disproving it must produce such evidence if he can. The presumption cannot be disproved by

casting aspersion on the credibility of the oral evidence accompanying the registered document. The oral evidence is in the nature of an additional proof and if the Court cast doubt on its veracity, it could disregard it. So, in the instant case, the document Ex.D1 has been proved on record by examining scribe and the marginal witness and it is a registered one and as such, protection of Section 16 of the Act is certainly there and presumption attached to it, though, rebuttable has not been rebutted by the appellants by leading cogent evidence and mere recital cited on oath that document is suspicious and forged and fabricated one, is not sufficient especially on the ground that no ground of forgery has been taken nor they dared to examine any expert witness to disprove the thumb impressions/signatures of the adoptive father on Ex.D1, which otherwise stands proved on record by leading cogent evidence by the respondents-defendants. Otherwise also, during the life time of deceased Mukhtiar Singh, it has not been challenged Jangir Singh, original plaintiff, who is none else, but, real brother of Mukhtiar Singh, nor by the present appellants and the argument raised by learned counsels for the appellants that neither any ceremonies qua taking the son in adoption nor giving has ever been held, hence, the same is void, is also devoid of any force especially in the circumstances when the parents who have taken the son in adoption have since died. The instant suit has been filed by Jangir Singh plaintiff challenging the adoption deed and the only person who gave his son in adoption namely Sukhdev Singh has been examined by respondents defendants, who has specifically stated that religious ceremonies were held and he alongwith his wife has given his son namely Bhupinder Singh to deceased Mukhtiar Singh and Surjit Kaur and they took the son in their lap and it has also been proved by another witness that Akhand Path was held at that time and kirtan was recited and even parshad was distributed, which not only proves the fact that proper giving and taking ceremony of the son of adoption has duly been proved on record in a ceremonial way as per procedure in the society and religious ceremonies are performed at such like occasions which have been performed. So, from the evidence on record, it has been duly proved on record that Bhupinder Singh defendant No.1 has been given in adoption by his natural parents to the adoptive parent and the adoption deed Ex.D1 has

also been duly proved on record as required under the Hindu Adoption and Maintenance Act.

22.The present appellants have never challenged the adoption immediately as adoption ceremonies were held and child was taken in adoption in the year 1993 vide Ex.D1, which is duly proved on record and thereafter adoptive father died in the year 1996 and mutation of inheritance was duly sanctioned vide Ex.P5 in favour of the adopted son as well as Surjit Kaur widow of Mukhtiar Singh adoptive father of Bhupinder Singh, which has never been challenged by any body and adopted son remained alongwith his adoptive mother, who remained alive till 2002 and she never challenged the adoption. Rather, they lived together and even certain cases were filed in the year 2005, which were also dismissed and another suit has been filed by Bhupinder Singh against Sukhdev Singh and Karnail Singh vide Ex.D7 for possession by way of partition of land measuring 1515 *muraba gaj* 03 *muraba feet* and in that suit, counter-claim was also filed and that suit was dismissed as withdrawn on 05.09.2009 vide order Ex.D8 and adoption deed has been challenged by the brother of the adoptive father firstly by way of the instant suit in the year 2007, which certainly has been filed after lapse of such a long time, which is not permissible under the law. The learned counsels for the appellants contended that there is no limitation for filing suit on the basis of inheritance, but, in the instant case, it is not the natural inheritance and the same is being claimed only on the ground of adoption deed Ex.D1 dated 13.10.1993, vide which defendant No.1 has been adopted by Mukhtiar Singh and Surjit Kaur since deceased, is illegal and void and for such like cases, limitation is certainly three years and the suit is beyond limitation.”

6. The above-said findings as returned by the First Appellate Court would reveal that adoption deed dated 13.10.1993 is a registered document. It is scribed Daya Nand and witnessed by two persons, namely Bhupinder Ahuja, Advocate and Bhupinder son of Dalip Singh. The scribe as well as attesting witness Bhupinder Singh son of Dalip proved due execution of adoption deed. The adoption deed is signed not only by Mukhtiar Singh, but also by the natural parents of defendant No.1 - Bhupinder Singh, i.e. Sukhdev Singh and his wife. It has been rightly observed by the Appellate Court that

no doubt, it is not specifically mentioned in Ex.D1 that Mukhtiar Singh had obtained consent of his wife, but there are numerous circumstances showing the implied consent of his wife Surjit Kaur. Adoption deed was executed on 13.10.1993. Mukhtiar Singh, who took defendant No.1 – Bhupinder Singh in adoption remained alive till 13.10.1996 and on his death, mutation of inheritance was sanctioned not only in favour of Surjit Kaur, but also in favour of defendant No.1 – Bhupinder Singh. These mutations were sanctioned in equal shares. Surjit Kaur then expired in the year 2002 and during her life time, she never challenged the adoption nor raised any objection before any authority regarding the adoption of defendant No.1 by her husband. Even various documents of defendant No.1 have been referred by the appellate Court in which said defendant No.1 – Bhupinder Singh is shown to be the son of his adoptive parents, i.e. Mukhtiar Singh and Surjit Kaur. It has further been observed on the basis of evidence that when Surjit Kaur had obtained loan from the bank, it was defendant No.1, who discharged the liability.

7. The above-said circumstances make it amply clear that there was consent of Surjit Kaur, the wife of Mukhtiar Singh in taking defendant No.1 in adoption. As far as ceremonies are concerned, Ex.D1 – adoption deed being a registered document, the ceremonies are presumed in view of Section 16 of Hindu Adoption and Maintenance Act, 1956, which reads as under:-

**“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.”

8. As Ex.D1 is duly proved to have been validly executed and the same being a registered document, the Court is bound to presume that adoption took place in compliance of the provisions of the Act, unless and until it is disapproved. Since, it is the plaintiff-appellant, who challenged the

adoption, so onus had shifted upon him to disapprove the adoption. However, he failed to produce any cogent evidence in this regard.

9. Apart from above, it has been rightly observed by the First Appellate Court that the adoption deed was executed way back on 13.10.1993. Mukhtiar Singh and Surjit Kaur, i.e. adoptive parents of defendant No.1 – Bhupinder Singh never challenged the adoption. The present suit was filed by plaintiff – Jangir Singh, i.e. brother of Mukhtiar Singh in January, 2007, i.e. much beyond the period of 03 years from the date of adoption and so, the suit has been rightly held to be barred by limitation.

10. On account of the entire discussions as above, this Court does not find any ground whatsoever to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below. There is no illegality or perversity in the impugned judgments of the Courts below. As such, finding no merit in the present appeal, the same is hereby dismissed.

**February 10, 2025**  
*Sarita*

**(DEEPAK GUPTA)**  
**JUDGE**

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No