

(1999) 05 SC CK 0022

In the Supreme Court Of India

Case No : Civil Appeal No. 2783 of 1991 (Arising out of SLP (C) No. 9899 of 1998)

Chairman, Bihar Rajya Vidyut Board

APPELLANT

Vs

Chhathu Ram and Others

RESPONDENT

Date of Decision : 07-05-1999

Acts Referred:

Hindu Adoptions and Maintenance Act, 1956 — Section 16

Citation : (2000) 1 ALT 1 : (1999) 10 JT 263 : (1999) 5 SCC 673 : (1999) SCC(L&S) 1008

Hon'ble Judges : Sujata V. Manohar, J;R. P. Sethi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Sujata V. Manohar, J.

1. Leave granted.

2. Heard both sides.

3. The respondent had applied for appointment on compassionate grounds. He claimed that he was the adopted son of a deceased employee Bansrajia Devi who had died on 6-9-1989. Learned Single Judge of the High Court dismissed the petition of the respondent. However, in letters patent appeal, the High Court has granted relief to the respondent.

4. The respondent claimed that he was the adopted son on the basis of a deed of adoption dated 28-2-1989. It is said to have been executed seven months before the deceased died. In the impugned judgment, the High court appears to have proceeded on the basis of a presumption relating to the validity of the adoption deed u/s 16 of the Hindu Adoptions and Maintenance Act, 1956. u/s 16 of the Act, if any document registered under any law for the time being in force is produced before any court purporting to record the 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. In the present case, the deed of adoption is not signed by any person giving the child in adoption. The copy which is produced before us does not indicate that this is a registered deed of adoption. Therefore, no presumption u/s 16 could have been drawn relating to the validity of the adoption. There are no facts on record showing whether on the date of adoption, the respondent was under the age of 15 years. There are also no facts on record to show whether the husband of the deceased was alive on the date of the adoption. If so, the adoption would have had to be made by the husband with the consent of the deceased. In the absence of any material, we are, therefore, not pronouncing on the validity or otherwise of the adoption. Therefore, the basis on which the High Court has proceeded cannot be sustained and the appellants cannot be faulted for not acting on the basis of the adoption deed. Secondly, by a standing order dated 21-4-1993 the appellants had withdrawn the benefits, if any, under the scheme for appointment on the compassionate grounds in the case of an adopted son.

5. The appellants have also contended that looking to the fact that the respondent was adopted only on 28-2-1989, and the alleged adoptive mother died on 6-9-1989, it could not be said that the respondent was wholly dependent on his mother at the time of her death. Looking to all the facts and circumstances, the Single Judge of the High Court has rightly held that the respondent was not eligible for appointment on compassionate grounds. The High Court ought not to have set aside the order of the Single Judge. We, therefore, allow the appeal, set aside the judgment of the High Court and restore the judgment of the Single Judge.

6. Learned Counsel for the appellants states that the legal dues of late Bansrajia Devi have been paid by them to the respondent not on the basis of his being an adopted son but on the basis of his being a nominee and upon his producing a succession certificate. In view thereof, there is no question of the appellant's recovering any dues so paid to the respondent.

7. No order as to costs.