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CASE REVIEW OF M. VANAJA V. M. SARLA DEVI

AUTHORED BY - SUHANI MANGAL

Introduction:

Adoption is a profound legal process wherein individuals or couples create a parent-child relationship with a child not biologically related to them. In India, adoption is governed by different personal laws. Hindu Adoptions and Maintenance Act, 1956, lays down the specific legal framework for adoption among Hindus.

The purpose of Hindu Adoptions and Maintenance Act, 1956 is to make sure that the adopted child can only legally claim the rights and properties of the adoptive parents if specific legal requirements are fulfilled. It does this by outlining the rules and procedures that must be followed for a valid adoption.

This research paper analyses M. Vanaja vs. M. Sarla Devi case which focuses on one significant aspect of adoption law in which appellant argues to be adopted child of the respondents and claims a share in their property. The appellant claimed the respondents to be her adoptive parents based on her academic records and official records. She claimed a partition of properties belonging to the deceased husband of respondent.

So, in this case, the court applies section 6, 7 and 11 of the Hindu Adoptions and Maintenance Act, 1956 for determining the essential ceremonies to be performed for valid adoption and whether she could receive the partition of the adoptive parent's property.

Facts of the case:

- The appellant has filed for a partition suit for the inheritance of property.
- The biological parents of the appellant died when she was of very young age. As she was very young, she was bought by her grandmother and since then, she was raised and taken care of by her mother's sister, M. Sarla Devi, who is the respondent in the case and her husband- Narasimha Naidu.
- The respondent and her husband were shown as the parents of the appellant in the school and college records and other documents.

- The appellant started living separately when she married.
- The respondent was living in the suit scheduled property after the death of her husband and was in enjoyment of his properties.
- The appellant filed for declaration that she is the adopted daughter of the respondent and her husband and for the partition of the properties belonging to the deceased husband of respondent.

Issues:

- Whether the appellant has proved that she has been, adopted by the respondent and respondent's husband.
- Whether she is entitled to a declaration that she is the daughter of the respondent and Narasimhulu Naidu.
- Whether the appellant is entitled to partition of the properties belonging to Narasimhulu Naidu.

Application of sections:

Section 6¹- Requisites of a valid adoption

Section 7²- Capacity of a male Hindu to take in adoption

Section 11³- Other conditions for a valid adoption

Interpretation-

“Must be actually given and taken- This clause states in express terms that there must be the actual giving and taking of the child with latent to transfer the child from the family of its birth to the family of its adoption. The physical act of giving and receiving was absolutely the law necessary as it existed before coming into force of for the validity of un adoption under the present Act, and the position that there under the Act is identical. The section, however, does not prescribe atty particular essential is mode or manner for the act of giving and taking. What is should be some overt act to signify delivery of the child from one family to another. It would be sufficient, for instance, if the natural parent is asked to give his or her child in adoption, and the child is handed over by him or her to the adoptive parent. The child need not necessarily

¹ Section 6 of Hindu Adoptions and Maintenance Act, 1956.

² Section 7 of Hindu Adoptions and Maintenance Act, 1956.

³ Section 11 of Hindu Adoptions and Maintenance Act, 1956.

have sat on the lap of the adoptive parent. It is the substance and reality of the acts that matter. However, mere expression of consent, or the execution of a deed of adoption, though registered, but not accompanied by actual giving and receiving, will not operate as a valid adoption. Thus, in the absence of documentary or other proof of an adoption, and the ceremonies also not shown to have been performed, the fact of such an adoption cannot be believed.

Power vests only in the father or the mother- *The power to give a son or daughter in adoption vests in the father or the mother. A guardian, as already pointed out, may now under the Act give a child in adoption with the previous sanction of the court. The power (or right) to give a child in adoption cannot be delegated to any person, but the father or the mother or the guardian, as the case may be, may authorize another person to perform the physical act of giving a son or a daughter in adoption. Likewise, the adoptive father or the adoptive mother can authorize any person to accept the child in adoption on his or her behalf.*

Free consent *-Every valid adoption implies the free consent to the adoption of the person giving and the person receiving in adoption, and also, it would seem, of the person adopted, if he is a major at the date of adoption (where the custom or us age applicable to the parties permits of adoption of a child who is not a minor)."*⁴

L. Debi Prasad (Dead) vs. Smt. Tribeni Devi & Ors.⁵:

In the present case, Gopal Das died in 1934 and subsequently, his widow also died in the same year. One, Debi Prasad, being the nearest heir of Gopal Das, filed for a suit for the possession of his properties contending that Gopa Das, who had separated from his family, died intestate and now, he was entitled to his properties.

This claim was resisted by Shyam Behari Lal who claimed to be the adopted son of Gopal Das. The trial court decreed the suit and High Court dismissed the appeal. Then, it was applied in the Supreme Court claiming that adoption was done after performing the necessary ceremonies according to the custom of their community.

The Supreme Court held that while Shyam Behari Lal could not establish the custom he pleaded or provide satisfactory evidence of the actual adoption, substantial documentary evidence

⁴ D.F. Mulla, HINDU LAW, 24th ed. 2024, p. 1349.

⁵ L. Debi Prasad (Dead) vs. Smt. Tribeni Devi and Others (1970) 1 SCC 677.

indicated that Gopal Das treated him as his son for over 25 years. The court emphasized that the validity of an adoption under Hindu Law requires the act of giving and receiving the child, without a prescribed form. Given the lack of positive oral evidence due to the passage of time, the court relied on the overall evidence, including the recognition of Shyam Behari Lal as Gopal Das's son by their community. Concluding that the adoption was both true and valid, the court agreed with the High Court's decision, finding no evidence to the contrary.

Application of Judgment- Though the facts of the case are similar to those in *M. Vanaja v. M. Sarla Devi*, but the law laid down in this case cannot be laid down in that case. *L. Debi Prasad* case pertains to adoption that took place in the year 1892 prior to Hindu Adoptions and Maintenance Act, 1956.

Although the appellant has provided proof that the respondent and her husband treated her like a daughter, she has failed to prove her adoption. Since the Hindu Adoptions and Maintenance Act of 1956 was introduced, no adoption will be deemed lawful unless it complies with the requirements outlined in Chapter I of the 1956 Act. The wife's assent and the adoption ceremony itself are the two prerequisites that have not been met.

Arguments by the appellant:

1. **Documentary Evidence Supporting Parentage-** The appellant argued that in all her school and college records, the names of the respondent and her husband were entered as her parents. This consistent documentation over the years was presented as evidence of her status as their adopted daughter.
2. **Service Record and Nomination in Pension Application-** The appellant highlighted that the service records of the respondent's late husband, Narasimhulu Naidu, referred to her as his daughter. Furthermore, she was nominated in his pension application, which was put forth as evidence of her recognized status as an adopted daughter.
3. **Inheritance Claim-** The appellant claimed that after Narasimhulu Naidu died intestate on August 19, 2003, she and the respondent inherited his entire estate. She argued that as his adopted daughter, she was entitled to a half-share of his assets.
4. **Inability to Prove Adoption Ceremony-** The appellant contended that it was not possible for her to prove the manner in which the adoption took place because she was very young at the time. She argued that the lack of direct evidence of the adoption ceremony should not invalidate her claim, given the substantial indirect evidence.

5. **Reliance on Precedent** - The appellant relied on the judgment in *L. Debi Prasad v. Smt. Tribeni Devi & Ors.*⁶ to argue that subsequent events and the treatment she received as a daughter should be taken into consideration for proving adoption. She asserted that the court should consider the overall evidence of her upbringing and recognition as a daughter, even if the formal adoption ceremony could not be proven.

Arguments by the respondent:

1. **Assertion of Biological Parentage**- The respondent filed a written statement asserting that the appellant is the biological daughter of her younger sister, Manjula. This argument was aimed at establishing that the appellant was not adopted but was instead a close relative who was taken in after her parents' death.
2. **Care and Upbringing Without Legal Adoption**- The respondent acknowledged that after the death of the appellant's biological parents, she and her husband brought up the appellant and provided her with a good education. However, they contended that this support did not equate to a formal adoption.
3. **Denial of Rights to Property Inheritance**- The respondent argued that the appellant does not have any legal right to the properties belonging to her (the respondent's) husband. This was based on the assertion that the appellant was never formally adopted and thus could not claim inheritance rights.
4. **Non-Compliance with Legal Requirements**- The respondent emphasized that the mandatory requirements under Sections 7 and 11 of the Hindu Adoptions and Maintenance Act, 1956, were not complied with by the appellant. These sections outline the legal procedures and conditions necessary for a valid adoption, including the consent of the wife and the actual ceremony of giving and taking.
5. **Absence of Proof for Adoption Ceremony**- The respondent argued that there was no proof regarding the ceremony of giving and taking, which is a crucial element for a valid adoption under the Hindu Adoptions and Maintenance Act, 1956. Without this proof, the adoption claim could not be substantiated.
6. **Testimony of the Appellant's Grandmother**- The respondent also relied on the testimony of the appellant's grandmother, who deposed in court that the appellant was never adopted. This testimony was used to further support the argument that the appellant was raised by the respondent and her husband but was not legally adopted.

⁶ L. Debi Prasad (Dead) v. Smt. Tribeni Devi and Others (1970) 1 SCC 677.

Analysis:

As the adopted daughter of the respondent and the late Narasimhulu Naidu, the appellant had filed a civil suit in the trial court, seeking the division of the suit's scheduled property. Her appeal was denied by the High Court of Andhra Pradesh in Hyderabad, and the trial court's ruling was maintained. The appellant, feeling aggrieved by the ruling, appealed to the Supreme Court.

The plaintiff claimed that the appellant's natural parents had both passed away when he was very young. M. Sarla Devi, the original responder, is the sister of her mother. The appellant argued that the respondent raised her and that she was identified as the respondent and her husband's daughter in government and educational records.

The appellant was unable to provide proof of the adoption ceremony, thus the trial court, relying on Sections 7 and 11 of the Hindu Adoptions and Maintenance Act, 1956, decided in favour of the defendant after hearing arguments from both parties.

The Hyderabad High Court rejected the appeal against the lower court's ruling because there was insufficient proof to support the claim that the adoption actually occurred in compliance with the 1956 Hindu Adoptions and Maintenance Act. According to the ruling, unless a legitimate adoption is demonstrated, the appellant cannot inherit the respondent's husband's property. The two important conditions for valid adoption according to Hindu Adoptions and Maintenance Act, 1956 are:

1. Consent of wife before a male Hindu adopts a child.
2. Proof of the ceremony of actual giving and taking in adoption.

During her evidence, the appellant acknowledged that she lacked documentation of the adoption ceremony. The plaintiff does not assert that the adoption conforms with the Act's terms, as is admitted. In spite of this, the respondent, the adoptive mother, has stated unequivocally in her testimony that the appellant was not adopted but rather raised by her and her spouse. The same was said in the appellant's grandmother's testimony. That the appellant was adopted by the respondent and her husband, Narasimhulu Naidu, was thus not proven.

The appellant relied on the ruling in *L. Debi Prasad v. Smt. Tribeni Devi*⁷ to support her claim that the respondent and her husband raised and adopted her, citing the abundance of evidence

⁷ L. Debi Prasad (Dead) v. Smt. Tribeni Devi and Others (1970) 1 SCC 677.

she presented to the court. Despite the fact that the facts are identical, the court argued that the case cannot be applied in this particular instance because it occurred prior to the 1956 Act's implementation.

The appellant cannot prove her adoption, the court argued, even though she was treated as the respondent's and her husband's daughter. According to the 1956 Act, an adoption cannot be considered legitimate unless it satisfies the requirements outlined in the Act's Chapter. The wife's assent and the actual adoption ceremony—two necessary prerequisites—have not been met. According to this Court's ruling in *Ghisalal v. Dhapubai*⁸, the wife's consent is required to prove adoption.

The court contended that though appellant was treated as the daughter by the respondent and her husband, she is not able to establish her adoption. The mandate of 1956 Act is that no adoption shall be valid unless it has been made in compliance with the conditions mentioned in Chapter of the 1956 Act. The two essential conditions i.e. the consent of the wife and the actual ceremony of adoption have not been established. This Court by its judgment in *Ghisalal v. Dhapubai*⁹ held that the consent of the wife is mandatory for proving adoption.

As the Supreme Court did not find any error in the judgment of High Court, the appeal was dismissed.

Judgement:

The judgment discusses the validity of an adoption under the Hindu Adoptions and Maintenance Act, 1956 highlighting two key conditions: the consent of the wife before a male Hindu adopts a child and proof of the ceremony of actual giving and taking in adoption, as stipulated in Sections 7 and 11. The appellant admitted she lacked proof of the adoption ceremony. Additionally, the appellant did not plead that the adoption complied with the Act's provisions. The respondent, the alleged adoptive mother, stated in her testimony that the appellant was not adopted but was instead raised by her and her spouse. Additionally, according to the appellant's grandmother's testimony, she was not adopted but rather given to the respondent and her husband to raise after losing her parents when she was a young girl. Therefore, the court concluded that the appellant failed to prove she was adopted by the

⁸ Ghisalal v. Dhapubai (2011) 2 SCC 298.

⁹ Ghisalal v. Dhapubai (2011) 2 SCC 298.

respondent and her husband.

Suggestions:

The current legal framework under the Hindu Adoption and Maintenance Act, 1956, poses challenges regarding proof of the adoption ceremony, particularly when the adoption occurred many years ago or when the adoptee was very young. The requirement to provide evidence of the formal "giving and taking" ceremony can be difficult to meet in such cases. To address this, it is suggested that the Act be amended to permit alternative forms of evidence to prove adoption, such as consistent documentary records (like school certificates, government documents, etc.) and credible witness testimonies. This would help in instances where the traditional ceremony cannot be substantiated due to the passage of time or other reasons.

The Act does not sufficiently recognize the long-term treatment of an individual as a child by adoptive parents as valid evidence of adoption. Amending the law to include provisions that acknowledge consistent and long-term parental care as prima facie evidence of adoption would help to align the Act with the principle of assessing overall evidence of upbringing and parental recognition.

Conclusion:

The case of *M. Vanaja v. M. Sarla Devi* underscores the stringent requirements for proving a valid adoption under the Hindu Adoptions and Maintenance Act, 1956. Despite the appellant's extensive documentary evidence and the long-term treatment as a daughter, the court emphasized the necessity of complying with the statutory requirements for adoption. The appellant's inability to provide proof of the adoption ceremony and the consent of the wife, as mandated by Sections 7 and 11 of the Act, led to the dismissal of her claims. The testimonies of the respondent and the appellant's grandmother further weakened her case, reinforcing that she was raised but not formally adopted. The Supreme Court's decision underscores that adherence to legal criteria is essential for validating adoption and inheritance claims.