

CASE: RAJESH SHARMA V. STATE OF HIMACHAL PRADESH & ORS., CWP NO. 6503 OF 2013 (H.P. HIGH COURT, JANUARY 10, 2017).

CWP No. 3717 of 2014

Reserved on: 27.12.2016

Decided on: 09.01.2017

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ABSTRACT

This case study examines the ruling delivered by the Himachal Pradesh High Court on 10 January 2017 in *Rajesh Sharma v. State of Himachal Pradesh & Ors.* In this case, a child adopted under the Hindu Adoptions and Maintenance Act, 1956 sought the Court's intervention after the authorities refused to update the official Panchayat records and the Parivar Register to show him as the adopted son of his deceased adoptive parents (late Sh. Deep Ram Sharma and late Smt. Phulma Devi), despite a registered adoption deed executed in 2002. The authorities defended their refusal on the grounds of delay, the absence of corroborating records in their administrative files, and the existence of a will bequeathing the deceased's property to a third party. The Hon'ble Court held that a registered adoption deed carries legal significance under Section 16 of the Act, and that procedural rules and administrative regulations cannot override the substantive rights conferred by the Act. The Court further held that the refusal to recognise the adoption violated the petitioner's fundamental right to identity and dignity under Article 21 of the Constitution of India. This study analyses the legal framework applied by the Court and the parties' respective contentions, and assesses the broader implications of the ruling for safeguarding the rights of adopted children against arbitrary administrative action.

INTRODUCTION

Adoption is a social and legal process by which a person voluntarily assumes responsibility for a child and treats that child as their own. It establishes a legally recognised parent-child bond, under which the adoptive parent undertakes to care for the child as their own. For an adoption to be valid, both the adoptive and biological parents must comply with the applicable legal procedure.

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Among Hindus, adoption is governed by personal law, and the rights it confers are prescribed under the Hindu Adoptions and Maintenance Act, 1956. For persons of other religions in India, adoption is likewise governed by their personal laws, along with the Guardians and Wards Act, 1890 and the Juvenile Justice (Care and Protection of Children) Act, 2015.

The case of *Rajesh Sharma v. State of Himachal Pradesh & Ors.* underscores the importance of following due legal procedure and maintaining accurate documentation in the adoption process, so as to prevent future disputes.

BACKGROUND

The petitioner, Master Sagar Sharma, filed a writ petition under Article 226 of the Constitution of India, seeking:

Certiorari (judicial review): to quash the authorities' decision refusing to recognise his adoption and to enter his name in the government records.

Mandamus (direction to the authorities): to direct the authorities to officially enter his name in the Panchayat records and the Parivar Register (Family Register) as the adopted son of late Sh. Deep Ram Sharma and late Smt. Phulma Devi.

FACTS

Late Sh. Deep Ram Sharma and late Smt. Phulma Devi, residents of village Bathoon, Himachal Pradesh, lawfully adopted the petitioner on 16.12.2002 through a registered adoption deed. The adoption was carried out with the consent of the petitioner's biological parents, Sh. Rajesh Kumar Sharma and Smt. Sonia Sharma, and was attested by two witnesses before the Sub-Registrar, Shimla (Rural). Although the adoption was carried out in accordance with the Hindu Adoptions and Maintenance Act, 1956, the authorities refused to record the petitioner's name in the Parivar Register (Family Register) and the Panchayat records, citing procedural requirements under the Himachal Pradesh Panchayati Raj (General) Rules, 1994² and the existence of a will in favour of another person, Sh. Heera Nand.

After the local authorities rejected his representations, the petitioner filed Civil Writ Petition No. 6503 of 2013, in which the Court directed the respondents to settle the matter within two months. When the authorities failed to comply, the petitioner pursued a contempt petition (COPO No. 4299 of 2013), which resulted in a further direction for judicial intervention. Despite these orders, the authorities again rejected the representation on 27.12.2013, citing unfulfilled procedural requirements. The petitioner contended that the valid adoption deed conferred legal heirship rights on him and entitled him to be recorded as the adopted son in the official registers.

ISSUES

- Whether the adoption of Master Sagar Sharma was legally valid and recognised under the Hindu Adoptions and Maintenance Act, 1956?
- Whether the authorities were justified in denying recognition of the adoption and declining to update the official records?
 - Whether procedural requirements for government records, such as the recording of adoption, can take precedence over the substantive adoption rights prescribed by law?
- Whether the existence of a will in favour of another person (Sh. Heera Nand) could affect an adopted child's rights as a legal heir?

ARGUMENTS BY THE PETITIONER: (MR. NAVEEN K. DASS, ADVOCATE.)

1. Adoption was legally valid under Hindu law.

The petitioner submitted that the adoption was legally valid under the Hindu Adoptions and Maintenance Act, 1956, which prescribes the eligibility criteria for the biological parents, the adoptive parents, and the child being adopted. Here, all the statutory conditions were fulfilled: the parties were Hindu, the biological and adoptive parents satisfied the eligibility criteria, the child was below fifteen years of age, and the giving and taking in adoption was voluntary and effected through a registered adoption deed.

Since all the legal requirements were met, the authorities had no right to refuse recognition of the adoption.

2. Adoption deed if registered is a conclusive proof.

72

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

The petitioner argued that under Section 16 of the Hindu Adoptions and Maintenance Act, 1956, an adoption recorded in a registered adoption deed is presumed valid until the contrary is proved. As the deed had been registered with the Sub-Registrar in 2002, more than eleven years earlier, there was no scope to question its validity at this stage. The petitioner therefore contended that the authorities' refusal to update the official records was illegal and baseless.

3. Recognition of legal status is a fundamental right.

The petitioner argued that the refusal to recognise the adoption violated his right to identity and dignity under Article 21 of the Constitution of India. By declining to update the records, the government effectively denied him valid recognition as the adopted son of his parents, adversely affecting both his identity and his inheritance rights. He contended that this amounted to a violation of his fundamental rights, since adoption creates an irrevocable and legally binding relationship between parent and child that must be respected and given effect.

4. Adoption laws cannot be overridden by the Parivar Register and Panchayat Records.

The petitioner argued that the respondents had earlier justified their refusal on the ground that the Parivar Register (Family Register) and the Panchayat records did not show him as the adopted son. He contended that such administrative records cannot take precedence over the statutory adoption laws, and that the mere fact that his name was not entered in the registers earlier, owing to a delay in paperwork, does not nullify a legally valid adoption.

5. The existence of a will supporting another person cannot invalidate the adoption.

The petitioner submitted that the authorities had misunderstood the legal effect of the will, which was made in favour of another person, Sh. Heera Nand. A will merely specifies who is to inherit property; it does not determine whether an adoption is valid. Adoption and inheritance, he

argued, are two distinct legal issues, and the mere existence of the will did not nullify his legal standing as the adopted son of Sh. Deep Ram Sharma and Smt. Phulma Devi. The refusal to recognise the adoption on this ground was therefore legally incorrect.

6. Delay in registration cannot be the ground for denial.

73

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

The authorities had also relied on procedural delay as a ground for denying recognition of the adoption, contending that registration should have been made within 21 days. The petitioner countered that procedural delay does not extinguish substantive rights under Hindu law, and relied on prior judicial precedent for the proposition that the authorities are duty-bound to update records based on the underlying legal facts rather than on arbitrary deadlines.

He concluded that the authorities' refusal was arbitrary, illegal, and contrary to his legal rights as an adopted child.

ARGUMENTS BY THE RESPONDENTS: (Mr. Pushpinder Jaswal, Deputy Advocate General with Mr. Rajat Chauhan, Law Officer, for respondents No. 1 & 2, and Ms. Kamlesh Shandil, Advocate, for respondents No. 3 & 4.)

1. Procedural lapse.

The respondent authorities pointed out that the petitioner waited eleven years, from 2002 to 2013, before seeking official recognition of the adoption. They contended that this long delay undermined the authenticity of the claim and complicated verification, as an adoption is ideally required to be recorded in the Parivar Register within 21 days under the Himachal Pradesh Panchayati Raj (General) Rules, 1994.

2. No legal record of the adoption in the Parivar Register and Panchayat records.

The authorities argued that an adoption ought to be entered in the local government registers as and when it takes place. Since the petitioner's name appeared as the adopted son in neither the Panchayat records nor the Parivar Register, the adoption was not reflected in the government

records in support of his claim, and the authorities were reluctant to make retrospective changes to official records without further verification.

3. Absence of a civil court decree recognising the adoption.

The respondents contended that the petitioner ought first to have approached a civil court for a formal decree declaring the adoption valid and in accordance with law. In the absence of such a declaration, they maintained that they were under no obligation to update the records.

4. Possible property disputes arising from the will.

74

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

One of the principal reasons given by the respondents for refusing the petitioner's request was the existence of a will in favour of another person, Sh. Heera Nand. The government expressed concern that recording Sagar Sharma as the adopted son in the Parivar Register could give rise to inheritance disputes between Sh. Heera Nand and the petitioner, and stated that it had adopted a cautious approach in order to avoid intervening in a private property dispute.

5. Prevention of fraudulent adoption claims.

The respondents stated that not every adoption deed can be treated as automatically valid, since there are instances where individuals falsely claim to have been adopted in order to inherit property. As the present case involved both delay and property rights, the authorities emphasised the need to scrutinise the claim to guard against fraud, and stated that allowing late recognition of adoption without further verification could set an undesirable precedent for similar future cases.

6. Gram Sabha's authority in recognising adoption.

The government submitted that the Gram Sabha (Village Council) has the authority to decide such matters under the Himachal Pradesh Panchayati Raj (General) Rules, 1994. As the Gram Sabha had declined to recognise the adoption, the government contended that it was bound to respect that local administrative decision, and that such a decision could not be overridden without valid legal grounds.

LEGAL FRAMEWORK

The Court analysed the case in light of the Hindu Adoptions and Maintenance Act, 1956, in particular:

- Section 5: provides that an adoption must be made in compliance with the Act, failing which no right accrues under a void adoption.³
- Section 6: specifies the requisites of a valid adoption.⁴
- Section 7: specifies the capacity of a Hindu male to take a child in adoption.⁵

³Section 5 of the Hindu Adoptions and Maintenance Act, 1956.

⁴Section 6 of the Hindu Adoptions and Maintenance Act, 1956.

⁵Section 7 of the Hindu Adoptions and Maintenance Act, 1956.

- Section 9: specifies the persons capable of giving a child in adoption.⁶ •

Section 10: specifies who may be adopted.⁷

- Section 16: raises a presumption as to registered documents relating to adoption.⁸ •

Article 21 of the Constitution of India.⁹

CORAM: The Hon'ble **Mr. Justice Chander Bhusan Barowalia**, Judge. (1:0)

JUDGEMENT

The Himachal Pradesh High Court delivered its judgement as follows:

The writ petition was filed by the petitioner, Master Sagar Sharma, seeking recognition of his adoption by late Sh. Deep Ram Sharma and late Smt. Phulma Devi. The dispute arose because the respondent authorities declined to update the official records despite the existence of a legally registered adoption deed executed in 2002.

THE COURT FINDINGS ARE:

The Court held that the adoption was carried out in accordance with the Hindu Adoptions and Maintenance Act, 1956 ('HAMA'), and that all the statutory conditions had been satisfied, making the adoption legally valid and binding. It held that the authorities had no justifiable basis for denying the adoption, since under Section 16 of HAMA, a registered adoption deed

constitutes conclusive proof and carries a presumption of validity unless rebutted by evidence of fraud¹⁰. No such fraud was proved in this case. The Court further held that the Parivar Register, being merely an administrative document, cannot be used to determine the validity of an adoption¹¹, and that the respondents' refusal to update the records was accordingly arbitrary and unlawful. It clarified that seeking recognition of the adoption even after eleven years does not affect its validity, since a registered adoption deed remains a permanent legal document once executed and cannot be nullified merely on account of procedural delay. On the question of the

⁶Section 9 of the Hindu Adoptions and Maintenance Act, 1956.

⁷Section 10 of the Hindu Adoptions and Maintenance Act, 1956.

⁸Section 16 of the Hindu Adoptions and Maintenance Act, 1956.

⁹Article 21 of the Constitution of India.

¹⁰Ghisalal v. Dhapubai, (2011) 2 S.C.C. 298 (India).

¹¹Kishori Lal v. Mt. Chaltibai, A.I.R. 1959 S.C. 504 (India).

will, the Court held that its existence does not affect the validity of the adoption¹², and that any dispute regarding inheritance rights must be resolved through separate civil proceedings; it cannot be relied upon as a ground for refusing to recognise the adoption. Finally, the Court held that the denial to update the records violated the petitioner's right to identity and dignity under Article 21 of the Constitution of India.¹³

DIRECTIONS GIVEN BY THE COURT:

The writ petition is allowed, in compliance with the directions set out below, issued to the respondents.

1. The respondent authorities are directed to correct the official records to reflect that the petitioner, Master Sagar Sharma, is the legally adopted son of late Sh. Deep Ram Sharma and late Smt. Phulma Devi.
2. The respondents shall issue a new birth certificate and other necessary documents reflecting the adoption.
3. The respondents shall submit an explanation for their conduct in denying the petitioner's request, and are directed not to refuse recognition of a valid adoption on the basis of bureaucratic

hurdles in future.

4. The respondents are directed to pay costs of Rs. 10,000/- to the petitioner, and the petition stands disposed of accordingly.

ANALYSIS:

The Court's reasoning in upholding the adoption under the Hindu Adoptions and Maintenance Act, 1956 was legally sound: the registered adoption deed constituted compelling evidence that the petitioner had been lawfully adopted, and the Court rightly rejected the local administration's rationale that procedural delay barred entry of his name in the Parivar Register. It highlighted that substantive adoption rights cannot be overridden by procedural rules.

¹²Lakshman Singh Kothari v. Smt. Rup Kanwar, (1961) 3 S.C.R. 813 (India).

¹³Shobha Rani v. Madhukar Reddi, A.I.R. 1988 S.C. 121 (India).

The ratio decidendi may be stated narrowly as follows: a registered adoption deed carries a statutory presumption of validity under Section 16 of the Act, which subsists until displaced by evidence of fraud, and this substantive presumption cannot be defeated by administrative or procedural rules of a subordinate character, such as the Panchayati Raj Rules. In reaching this conclusion, the Court gave appropriate weight to the statutory hierarchy between a central welfare legislation and subordinate local regulations, an approach consistent with the precedents it relied upon.¹⁴ The judgment, however, engages relatively briefly with the respondents' fraud-related concerns; a fuller discussion of what would constitute sufficient evidence of fraud to rebut the Section 16 presumption would have strengthened the reasoning and offered clearer guidance for future cases involving delayed recognition of adoption.

Application of statutory provisions

The Court correctly applied Sections 5, 6, 7, 9, 10 and 16 of the Hindu Adoptions and Maintenance Act, 1956 to satisfy itself that the adoption complied with the statutory requirements, namely:

- Both the biological and adoptive parents were Hindu by religion.

- The child was below fifteen years of age and unmarried at the time of adoption.
- The adoption was executed through a registered adoption deed in the presence of witnesses.
- The child's rights were recognised within the adoptive family. Although the case involved procedural rules under the Himachal Pradesh Panchayati Raj (General) Rules, 1994, which the respondent authorities misapplied to deny the request for registration, the Court corrected this by giving precedence to the substantive adoption law over administrative hurdles.

Did it set a legal precedent?

Although the verdict does not lay down a new precedent, it reinforces the settled principle that a lawfully executed adoption cannot be overlooked merely on account of procedural delay. In particular, it reaffirms that:

14

78

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

- Government records must recognise adopted children regardless of procedural lapses.
- Adoption rights conferred by statute cannot be overridden by administrative authorities through local regulations.
- A validly executed adoption confers the status of a legal heir on the adopted child even if it is not recorded in the Panchayat or revenue records in time; however, as the Court itself clarified, the precise extent of the child's inheritance rights in relation to specific property remains a matter to be determined in appropriate civil proceedings, particularly where a competing claim, such as a will, is involved.

Other legal interpretations: the social and practical implications of the judgement.

- It prevents administrative authorities from unfairly denying adopted children their statutory rights.
- It facilitates a smoother process for entry into official records by simplifying the legal recognition of adoption.
- It strengthens the ability of lawfully adopted children to claim legal identity and, subject to

adjudication of any competing claims, to inherit property.

- It emphasises that statutory adoption rights must be respected by rural governance bodies.

Effect on government policies, administrative efficiency, and individual rights:

- Even where procedural lapses exist, administrative authorities must now ensure that a valid adoption is recognised.
- It encourages simplified procedures for updating Panchayat and revenue records, so as to minimise unnecessary litigation.
- It upholds individual rights by ensuring that a legally adopted child cannot be denied recognition on account of bureaucratic procedure.

Unintended consequences:

- The judgment may also carry certain unintended consequences, such as an increase in claims by adopted children seeking correction of pending records, including in cases where the legality of the adoption itself is disputed. There is also a risk that individuals

79

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

may falsely claim to have been adopted, after the death of the alleged adoptive parent, in order to inherit property; such fraudulent claims could give rise to conflict with existing wills and other testamentary dispositions.

Strengths of the judgement: the well-reasoned points made by the Court.

- Substantive law was given precedence over procedural technicalities.
- It emphasised the superior authority of the Hindu Adoptions and Maintenance Act, 1956 over local administrative regulations.
- It directed the authorities to correct the official records, ensuring long-term compliance.

How legal uncertainty was clarified:

- It removed the ambiguity as to whether delay in recording an adoption affects its authenticity.
- It clarified that local Panchayat regulations can be overridden by statutory adoption law.

- It affirmed that a registered adoption deed acts as conclusive proof of adoption, in the absence of fraud.

How the judgement strengthened justice and fairness:

The judgment validated the petitioner Master Sagar Sharma's recognition as the son of his adoptive parents. It curbed bureaucratic overreach by the respondent authorities, who had sought to overlook a legally valid adoption, and it helped safeguard the inheritance rights of legally adopted children, without foreclosing the separate adjudication of specific inheritance disputes.

Weaknesses or criticism: unanswered questions and loopholes.

The Court appears to have proceeded on the assumption that the adoption was valid, without independently examining whether it had ever been challenged in a civil court. This leaves open the question of whether the remedy granted was entirely adequate: while the direction to update the records immediately, along with the award of costs, was arguably justified and fair, a more comprehensive order clarifying the scope of the petitioner's inheritance rights vis-à-vis Sh. Heera Nand's claim under the will may have gone further in preventing future disputes.

Whether the judgement is reasonable, fair, and lawfully justified:

80

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

The judgment is, on balance, fair, reasonable, and lawfully justified. It upholds the adopted child's right to be recognised, corrects a bureaucratic error that had violated the law, and ensures that the statutory provisions governing adoption are correctly followed by the authorities.

Its future application carries policy implications, leaves scope for legislative clarification, and may itself give rise to fresh disputes over inheritance. Nonetheless, the case is significant in preserving the rights of adopted children against arbitrary bureaucratic rejection. This author endorses the judgment, as it strengthens adoption law by validating the rights of an adopted child irrespective of procedural lapses, and upholds:

- The overriding force of statutory adoption law over procedural limitations.
- The binding nature of a registered adoption deed, even where its entry in the Parivar Register has been delayed.

CONCLUSION:

This case concerned whether the adoption of Master Sagar Sharma was lawfully valid under the Hindu Adoptions and Maintenance Act, 1956, and whether the authorities were correct in denying its recognition on grounds of bureaucratic delay and local administrative regulations. The Court ruled in favour of the petitioner, holding that a lawfully executed and registered adoption deed is conclusive proof of adoption and cannot be refused recognition merely on account of procedural lapses.

In this author's view, the verdict rightly upholds the superior authority of adoption law over procedural technicalities. It reaffirms that an adopted child's legal identity, and the inheritance rights that follow from it, cannot be denied merely on account of bureaucratic delay, though the precise scope of those inheritance rights in the face of a competing will remains for adjudication in appropriate proceedings. The judgment furthers the cause of justice by holding that a valid adoption cannot be rejected arbitrarily, thereby securing legal certainty and confirming that once an adoption is legally executed, it must be recognised irrespective of any delay in updating the official records.