

CASE COMMENT

M. VANAJA VS M. SARLA DEVI (DEAD) BY L.RS.

(2020) 5 Supreme Court Cases 307: (2020) 3 Supreme Court Cases (Civ) 249: 2020 SCC OnLine SC 311

CASE NO – Civil Appeal No. 8814 of 2010.

CORAM – HON'BLE JUSTICE L. NAGESWARA RAO AND DEEPAK

GUPTA. DECIDED ON MARCH 6, 2020.

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ABSTRACT

This case analysis examines *M. Vanaja v. M. Sarla Devi (Dead) by L.Rs.*, wherein the Supreme Court of India adjudicated the claim of validity of an adoption under the Hindu Adoptions and Maintenance Act, 1956. The Appellant claimed to be a legally adopted daughter of Respondent and her deceased husband, by relying on the government documents, academic records and the service records as supporting evidence. However, the Respondent denied the formal adoption by asserting that the Appellant was merely raised out of a goodwill, following the death of her biological parents. The Supreme Court ruled in favour of the Respondent, upholding the decisions of the trial court and high court, by reaffirming that a valid adoption under Sections 6, 7, and 11 of the Act requires the consent of the wife living at the time of adoption, as mandated by the proviso to Section 7, and the actual giving and taking of the child in adoption under Section 11(vi). Subsequently, the court held, the long-term upbringing and documentary evidence cannot substitute the essential legal ceremonies. Furthermore, this analysis identifies gaps in the existing legal framework, explores the implications of the judgement and suggests the reforms to accommodate evidentiary challenges arising in informal adoption scenarios, particularly where the formal ceremonies were not observed.

KEYWORDS: Adoption Law; Valid Adoption; Giving and Taking; Property Rights; Inheritance.

INTRODUCTION

In India, Adoption is a legal process through which individuals or couples establish a parent-child relationship with a child to whom they are not biologically related. Adoption is governed by the

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personal laws. The Hindu Adoptions and Maintenance Act, 1956 lays down the legal framework for adoption among Hindus. The main purpose of the Hindu Adoptions and Maintenance Act, 1956 is that a child can legally claim inheritance rights over the adoptive parent's property of an adoptive parent only when the adoption is fulfilled via essential rules and procedures.

Can any person claim as an adoptive child without providing the proof of adoption validation?

We will know about this further through analysing M. *Vanaja vs. M. Sarla Devi (Dead) by L.Rs.*² which predominantly focus on the adoption law where the Appellant in the present case argues to be the Respondent's adoptive child and therefore has the right in order to inherit the property on the basis of academic and official records.

In this case, the court applied the Sections – 6,7 and 11 under Hindu Adoptions and Maintenance Act, 1956 for determination of the need in performing the essential ceremonies for the valid adoption and whether the Appellant has the right for inheritance of the property.

FACTS OF THE CASE

- The Appellant's biological parents died when she was very young, and the Appellant's grandmother took care of her. However, owing to her young age and the need for long-term guardianship, her maternal aunt, M. Sarla Devi, raised her as her own child.
- Through upbringing, the Appellant was treated as a daughter as per the official records of government, like the ration cards as well as in school.
- Additionally, Narasimhulu Naidu is an employee in Andhra Pradesh State Electricity Board (APSEB) and working as a lift operator, where in the service record it was mentioned that Appellant was his daughter as well as nominee for his pension application.
- Narasimhulu Naidu died intestate on August 19, 2003. He owned multiple properties such as buildings in the areas of Srinivas Nagar East, Gayatri Nagar in Ameerpet, Hyderabad as well as other assets too.
- Appellant claimed that She and Respondent can inherit the property and are entitled to be shared equally. Upon that, she asserted to be involved in supplying the material goods to APSEB employees who were involved in the textile business of Narasimhulu Naidu.
- The Respondent continued to reside in the suit of scheduled property and retain the control over the property from the date when her husband passed away,

- Appellant alleged that Respondent turned against her because of her ill advice given by the relatives and attempted to alienate (transfer) the property solely on her own interest. - When the Appellant's efforts to persuade the Respondent failed, she eventually filed a suit by claiming that she was the Respondent's and Narasimhulu Naidu's adoptive daughter, as well as requested for the share in partition of the deceased property.

ISSUES

1. Whether the Appellant is considered to be an adoptive child of the Respondent and her late husband?
2. Whether the Appellant is entitled for the declaration that she is an adoptive daughter of the Respondent and Narasimhulu Naidu?
3. Whether the Appellant is eligible for the share in partition of the deceased property?

APPLICATION OF SECTIONS

- Section 6 of Hindu Adoptions and Maintenance Act, 1956.
- Section 7 of Hindu Adoptions and Maintenance Act, 1956.
- Section 11 of Hindu Adoptions and Maintenance Act, 1956.

ARGUMENTS BY THE APPELLANT

1. Evidence in documentation supporting her Parentage

Appellant argued that the names of Respondent and Narasimhulu Naidu (dead) had been enrolled as her parents in all her Academic records of the school and college. This consistent documentation over the years serves as evidence of her status as their respective adopted daughter.

2. **Application for the Nomination in Pension as well as Service Record** The Appellant accentuated that her name was mentioned as his daughter in the service records of the Respondent's late husband, Narasimhulu Naidu. Besides that, in his pension application, she was represented as a nominee which was presented as evidence of her accreditation status as an adopted daughter.

3. Claim for inheritance

The Appellant claimed that she and the Respondent can inherit the entire estate of Narasimhulu Naidu after the moment, when he died intestate on August 19, 2003. Moreover, the Appellant stated that she was eligible to the half share of his asset as an adopted daughter.

4. Inability to Prove Adoption Ceremony

The Appellant contended that as she was very young at that time, it wasn't possible for her in order to prove the exact manner in which the adoption took place. She argued that, owing to the justified absence of concrete evidence of the adoption ceremony should not invalidate her claim, given the extensive secondary evidence.

5. Adherence on Precedent

By relying on the judgement delivered in the case of *L. Debi Prasad v. Smt. Tribeni Devi & Ors.*³ The Appellant argued that the court ought to take into consideration the subsequent events and the treatment which she received further as a daughter for validating the adoption. She asserted to the court to consider all the evidence of her upbringing and the recognition as a daughter, even though the adoption could not be proven via mandatory requirement of actual giving and taking under Section 11(vi), together with the absence of pleading and evidence establishing a valid adoption.

ARGUMENTS BY THE RESPONDENT

1. Allegation of Biological Parentage

The Respondent filed a written statement by alleging that the Appellant is the biological daughter of Manjula, who is her younger sister. This argument was made to establish that the Appellant, though a close relative, was taken in by the Respondent and her husband after the death of the Appellant's parents, but was never formally adopted.

2. Support and Upbringing Without Legal Adoption

The Respondent endorsed the statement, affirming that it was accurate that she and her husband raised up the Appellant and supported her by providing a quality education after the death of her parents. Whereas, they contended that this support did not associate with a formal adoption.

3. Denial of the Appellant's Right to Inherit Property

The Respondent argued that the Appellant had no legal right to inherit the property

belonging to her husband, since the Appellant was never adopted in a formal manner and hence could not claim a right of inheritance.

4. Non-Compliance with Legal Requirements

The Respondent brought attention to the mandatory requirements under Sections 7 and 11 of the Hindu Adoptions and Maintenance Act, 1956, which were unaccomplished by the

³*L. Debi Prasad (Dead) by L.Rs. v. Tribeni Devi*, (1970) 1 SCC 677 (India).

Appellant. These sections outline the proper structure regarding the legal procedures and conditions which are necessary for an adoption to be valid, including the consent of the wife living at the time of adoption, as required by the provision to Section 7, and the actual performance of the giving-and-taking ceremony.

5. Lack of Proof for Adoption Ceremony

The Respondent argued that giving and taking ceremony is a crucial element for an adoption to be valid under the Hindu Adoptions and Maintenance Act, 1956. In the absence of this evidence, the adoption claim could not be authenticated.

6. Testimony of the Appellant's Grandmother

The Respondent also relied on the Appellant's grandmother testimony who stated in the Court of law that the Appellant was never adopted henceforth. This testimony further reinforced the Respondent argument that the Appellant was raised by them but had not been legally adopted.

JUDGEMENT

In this case, the judgement given by Justice L. Nageswara Rao and Justice Deepak Gupta with a 2:0 unanimous focus on the validity of adoption under Hindu Adoptions and Maintenance Act, 1956 by accentuating on two key conditions.

1. The consent of the wife living at the time of adoption, as required by the provision to Section 7, is mandatory before a male Hindu may adopt a child.
2. Performing the actual giving and taking ceremony is considered as a proof under Sections of 7 and 11.

The Appellant admitted that she had no proof of the giving-and-taking ceremony having taken place. Furthermore, there was no pleading in the plaint that the adoption complied with the requirements of the Hindu Adoptions and Maintenance Act, 1956. In addition to that, the Respondent testified that

she and her late husband never adopted the Appellant in a formal manner, but only raised her. The Appellant's grandmother in her testimony also supported the statement given by the Respondent by clarifying that, after the death of Appellant parents at her young age, she was taken and cared for by them by providing the essential facilities like the quality education, but had not been legally adopted. On the basis of these statements, the court ruled in favour of the Respondent as the Appellant failed in proving the legal validity of adoption.

CRITICAL ANALYSIS

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Adoption is a legal process through which individuals or couples establish a parent-child relationship with a child to whom they are not biologically related. For Hindus, the part of adoption will be governed by Hindu Adoptions and Maintenance Act, 1956, where it modernised and codified the laws by ensuring uniformity and the legal framework. Before the enactment, the rules of the adoption in the Hindu law were in a disorganised manner with many backward provisions. But in the latter part, Hindu Adoptions and Maintenance Act, 1956, introduces significant changes especially the rights of the women in the adoption and mandating to follow all the legal procedures which were laid down by this act to be a valid adoption.

Coming back to the present case, the Appellant was claimed to be a legally adopted daughter of the Respondent and her late husband, by raising an argument that she was raised as their own child for a very long time, and also recognised through the records of government and educational sectors.

In the first instance, the Trial Court has dismissed the claim due to the insufficient evidence of performing the adoption ceremony and the same decision was upheld by the High Court by stating that merely upbringing the child as a daughter doesn't resemble to be a valid adoption as per the law. Through this decision, the Appellant is dissatisfied and approached Supreme Court as an aggrieved party which also reaffirmed the same as the essential criteria need to be met as per Hindu Adoptions and Maintenance Act, 1956.

The Court primarily relied on Sections 6, 7, and 11 of the Hindu Adoptions and Maintenance Act, 1956, which read as follows:

1. ⁴Section 6: Requisites of a valid adoption.
2. ⁵Section 7: Capacity of a male Hindu to take in adoption.
3. ⁶Section 11: Other conditions for a valid adoption

The Court of law also cited the case of *M. Gurudas v Rasaranjan*⁷, held that the giving and taking ceremony is considered as an essential requirement for a valid adoption.

The Appellant also endeavoured in order to rely on the case of *L. Debi Prasad v Smt Tribeni Devi* by arguing that since she was raised up as a daughter of the Respondent and her late husband – Narasimhulu Naidu, hence need to be considered as an adopted child. However, the Court distinguished L. Debi Prasad on the ground that the adoption in that case had taken place before the

⁴ The Hindu Adoptions and Maintenance Act, No. 78 of 1956, § 6 (Requisites of a Valid Adoption) (India). ⁵ The Hindu Adoptions and Maintenance Act, No. 78 of 1956, § 7 (Capacity of a Male Hindu to Take in Adoption) (India).

⁶ The Hindu Adoptions and Maintenance Act, No. 78 of 1956, § 11 (Other Conditions for a Valid Adoption) (India).

⁷ *M. Gurudas v. Rasaranjan*, (2006) 8 SCC 367 (India).

enactment of HAMA in 1956, and was therefore governed by pre-existing customary Hindu law. The present case, by contrast, fell to be decided strictly in accordance with the statutory requirements introduced by the 1956 Act, and the reasoning in L. Debi Prasad could not be extended to a case governed by the Act.

In *Ghisalal v Dhapubai*⁸, the Supreme Court held that by treating a child as their own doesn't make the adoption to be valid unless the legal conditions are met. Adding to it, this case highlights a significant reform in Hindu Adoption Laws.

Earlier (Before the enactment of 1956), women had no key role to play in making the decisions in the subject matter of adoption, a husband could adopt a child even without his wife's consent. Through the establishment of 1956, it granted the rights to the women as equally to men so they can adopt a child independently and consent is considered mandatory when the husband is adopting a child. This was reaffirmed in the case of *Bhanupratap Singh v State of Uttar Pradesh*⁹ and held that the wife's concern is essential even if the couple is living separately. This strengthened the women's agency in adoption and prevented the misuse of the issues related to the property. This principle aligns with the broader constitutional trend recognising the equal parental rights of women, as affirmed by the Supreme Court in *Githa Hariharan v. Reserve Bank of India*¹⁰, where the Court read down the exclusion of the mother as a natural guardian save in the father's absence, thereby securing substantive gender equality within family law and reinforcing the same principle of equal parental agency underlying the consent requirement under Section 7.

The key Issue in these laws is a bit controversy over the ceremonies of adoption:

- Under Section 11(vi), the child must be actually given and taken in adoption by the parents or guardian concerned, or by a person authorised by them. (Mandatory)
- Datta Homam is a kind of ritual which involves the offerings to the fire. (Optional)

The Court reaffirmed the actual giving and taking of the child, under Section 11(vi), as an essential requirement for a valid adoption.

Despite the clarity, there are the cases like the present one which demonstrates the ambiguities that still need to be addressed in interpreting and enforcing the adoption laws. Because there are many individuals, especially those who are unaware regarding the formal legal process and mistakenly

⁸ *Ghisalal v. Dhapubai*, (2011) 2 SCC 298 (India).

⁹ *Bhanu Pratap Singh v. State of U.P.*, AIR 2021 All 19 (High Court of Allahabad, decided Nov. 25, 2020).

¹⁰ *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228 (India).

believe that upbringing the child informally by family constitutes as a valid adoption, which ultimately leads to the legal disputes.

Therefore, this case reiterates the strict statutory requirements of the Hindu Adoptions and Maintenance Act, 1956, that must be fulfilled. The Supreme Court ultimately dismissed the appeal on the basis of the reasons stated above. The rules strengthened the legal safeguards in the adoption in order to prevent misuse of the inheritance claim and the rights of the women in the adoption procedures.

SUGGESTIONS FOR LEGAL REFORM

The current laws of Hindu Adoptions and Maintenance Act, 1956 provides the challenges in proving the adoption to be valid specifically at the time when the adoption took place for many years or the adoptee was very young. The strict requirements mentioned in the act that must need to be fulfilled like performing the giving and taking ceremonies creates the ambit of difficulty in few cases. So, It is suggested that the legislature consider amending the Act to recognise alternative forms of proof.

- It is recommended that the Act be amended to recognise alternative forms of proof of adoption, such as registered school records, government-issued certificates, and credible witness testimony.

The above-mentioned criteria ensure to cross verify the valid adoption when the proof of ceremony is unavailable. Additionally, the current law would not justify the scenario where a family raising a child for many years with love and care as well as treating the child as their own, as evidence to be a valid adoption. So, an amendment such as the long-term parental care needs to be taken into account in the first instance itself. This ensures the Judiciary to look at the broader perspective in the matter of evidence rather than relying on the formal ceremonies. Therefore, these kinds of amendments ensure to align the law with the reality of social practices.

CONCLUSION

This case of *M. Vanaja v. M. Sarla Devi (Dead) by L.Rs.* (decided in favour of the Respondent) highlights that the adoption under the Hindu Adoption and Maintenance Act, 1956 cannot be established via long term upbringing and documentary recognition as a child. Although the Appellant was treated as a daughter since childhood and relied on government, academic and service records in order to support her claim, she neither proved nor pleaded compliance with mandatory requirements

of the Act, particularly the actual giving and taking of the child in adoption under Section 11(vi). The case reaffirms the factual and documentary compliance; however, persuasiveness cannot substitute for strict compliance with the statutory conditions governing a valid adoption.

