
(1879) 08 AHC CK 0002

Allahabad High Court

Case No: None

Sukhbasi Lal

APPELLANT

Vs

Guman Singh

RESPONDENT

Date of Decision: Aug. 29, 1879

Citation: (1880) ILR (All) 368

Hon'ble Judges: Robert Stuart, C.J; Spankie, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Spankie, J.

The plaintiff, appellant, presented a petition in the Revenue Court on the 27th April 1860, and personally attested it. In this petition he most distinctly states that he had adopted defendant, and that all the requisite ceremonies had been performed, and that defendant would be the owner and heir of all the petitioner's property at his death. Thirteen years afterwards, the adoptive father and the adopted son being engaged in litigation, the plaintiff filed a compromise in which he says that he will consider the defendant as his adopted son. On the 14th April 1877, he instituted this suit to invalidate the adoption as having been informal, and to annul the agreement or compromise of the 10th January 1873.

2. The plaintiff, having himself affirmed the adoption as having been fully and formally made after the performance of all the ceremonies required by the Hindu law, cannot now disaffirm it and sue for a declaration that it is invalid. Indeed, when the adoption has once been absolutely made and acted on for years, it cannot be cancelled. It is certain that an adopted child cannot renounce the family of his adoptive father. He is entirely separated from his own family when his natural father disposes of him. The adoptive father in accepting an adopted son is bound by Iris act, which secures to the adopted son all the rights of a son born to the family. He is as much a son as if he had been begotten by his adoptive father.

3. We are not called upon to consider the point urged in the second place, that a father can, under the principles of the Hindu law, exclude His adopted son, if such son is no longer in a position and fit to perform the religious ceremonies and rites which are the chief object of adoption. We must adhere to the claim as it stands in the plaint.

4. The compromise of the 10th January 1873, was filed in a suit which was determined on the terms of the compromise. If the plaintiff has suffered any wrong in consequence of defendant's omission to carry out the terms, and a new cause of action has arisen, he has a remedy, but he cannot renounce an adoption made prior to the compromise and acknowledged by himself as altogether complete and formal in 1860, by pleading now that owing to the refusal of defendant to act up to the terms of the compromise in 1873, he (plaintiff) is at liberty to consider the adoption at an end. The adoption subsists and must do so until the adopted son is dead. We dismiss the appeal and affirm the judgment with costs.