



2025:DHC:7635



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****BEFORE****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

+ CS(OS) 138/2020

RAJAT JOON

S/O SHRI RAJINDER SINGH JOON

PLOT NO.142/1,

DELHI BAWANA ROAD,

VILLAGE POOTH KHURD,

DELHI-110039.

.....Plaintiff

(Through: Mr. Anand Yadav and Ms. Anita Tomar, Advs.)

versus

RAJINDER SINGH JOON

S/O SHRI PRATAP SINGH

PLOT NO.142/1,

DELHI BAWANA ROAD,

VILLAGE POOTH KHURD,

DELHI-110039.

.....Defendant No.1

SMT.GYATRI DEVI

PLOT NO.142/1,

DELHI BAWANA ROAD,

VILLAGE POOTH KHURD,

DELHI-L 10039.

& OTHERS

.....Defendant No.2

SMT. ROSHNI LOON

W/O SHRI KRISHAN LOON

381 CHABU PANNA,

POOTH KHURD,

DELHI-I 10039.

.....Defendant No.3



(Through: *Mr. Virender K. Singh and Mr. Pradyumn Rao, Advs. Mr. V. P. Rana, Ms. Bhawana, Ms. Harvinder Das, Mr. Bhuvan and Mr. Siddharth Shankar, Advs for applicant in I.A. 6980/2022.*)

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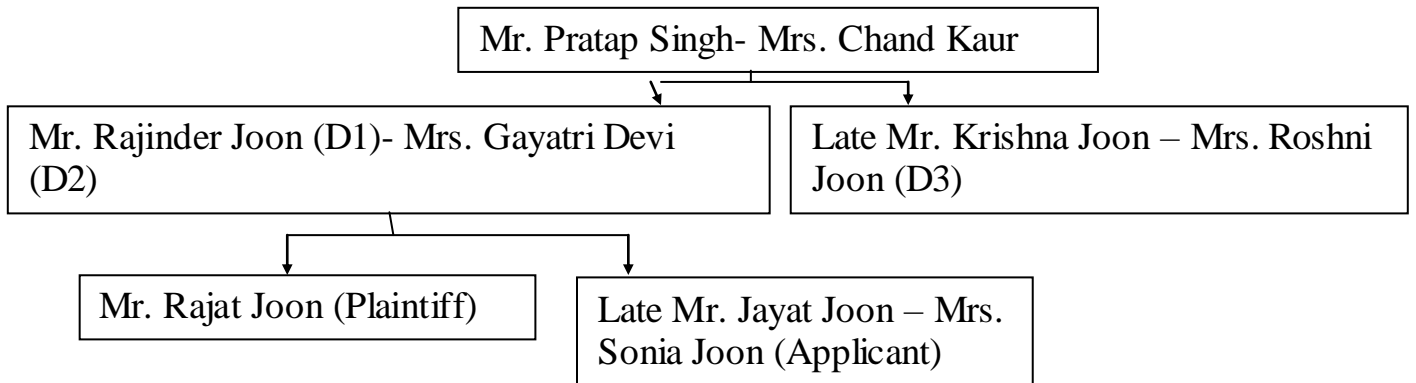
Reserved on: 18.08.2025

Pronounced on: 01.09.2025

JUDGMENT

I.A. 6980/2022 (BY APPLICANT - FOR SETTING ASIDE THE ORDER DATED 21.10.2020)

1. The instant application is filed under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) for setting aside the decree passed by this Court consequent to the compromise entered into by the parties to the suit.
2. The present suit was filed seeking, primarily, a declaration that the plaintiff is the son of defendants no. 1 and 2.
3. An examination of the record of the suit indicates that Mr. Rajat Joon, the plaintiff, was the biological son of Mr. Rajinder Singh, defendant no. 1 and Mrs. Gayatri Devi, defendant no. 2. Defendant no. 1 had a brother, namely, late. Mr. Krishna Joon, whose name had been entered as the father of the plaintiff in his school records. He had expired prior to the institution of the suit, but his wife, Mrs. Roshni Joon, was arrayed as defendant no. 3. The present applicant is widow of late Mr. Jayant Joon, who was the elder son of defendants no. 1 and 2, and the brother of the plaintiff. The family tree of the parties is extracted below, for reference:



4. As per the case set up by the plaintiff, he was born on 26.05.1991 out of the wedlock between defendant No.1 and defendant No.2. It was his case that due to an inadvertent error, the names of defendant No.3 and her late husband were entered as plaintiff's parents in the school record.

5. It was further claimed that the plaintiff was never formally adopted by defendant No.3 or her husband. He had always lived with and was raised by defendant Nos.1 and 2. When the plaintiff asked for a share in the family property in 2020, defendant No.1 refused, claiming that he was the son of late Mr. Krishan Joon and defendant no. 3. However, even defendant no. 3 categorically claimed that the plaintiff was not adopted by her. In fact, neither defendant no. 3 nor late Mr. Krishan Joon record the plaintiff to be their son, in their respective Wills.

6. It is the case of the plaintiff that despite several requests and the family meetings in May, 2020, the plaintiff was denied any share in the family-property, leaving him with no option except to institute the present civil suit.

7. The record of proceedings indicates that the suit was instituted on 09.06.2020. Defendant No. 1 did not appear before the Court for contesting the suit, while Defendants No. 2 and 3 admitted the plaint averments in their



respective written statements. Thereafter, on 23.09.2020, the parties were referred to mediation on a joint request. The parties, thereafter, entered into a settlement agreement dated 14.10.2020 in terms of which, a compromise decree was passed by the Court on 21.10.2020. The terms of the said compromise are as follows:

"i. That Smt. Gaytri Devi, Defendant No.2 and Smt. Roshni Joon, Defendant No.3 have already admitted the averments and claim of the Plaintiff in their written statement stating that Shri Rajat Joon is son of Shri Rajinder Singh Joon and Smt. Gaytri Devi. Shri Rajat Joon is their son and born from the wedlock of Defendant No.1 and Defendant No.2. The Defendant Nos. 2 and 3 are still maintaining their stand and agree that the plaintiff is a son of defendant Nos. 1 and 2 and born from their wedlock.

ii. That Shri Rajinder Singh Joon, Defendant No. 1 has also admitted and agreed that Shri Rajat Joon (Plaintiff) is born from his wedlock with Smt. Gaytri Devi (Defendant No. 2) and Shri Rajat Joon always lived with them being their son and averments made by Shri Rajat Joon Plaintiff in the plaint are correct. There was some developments/misunderstanding and therefore Defendant No. 1 refused to recognize Shri Rajat Joon as his son for the first time in February 2020. The Defendant No. 1 agrees and admits the plaintiff is his son and mentioning the name of Shri Krishan Joon and Smt. Roshni Joon as father and mother of the Plaintiff in school education record or any other record is of no consequence and Plaintiff was always and is son of Defendant No. 1 and Defendant No.2.

iii. That the OS (OS) No. 138/2020 be disposed of in terms of the present agreement.

iv.. The parties agree that they shall appear before the Hon'ble Court during virtual hearing to their statements in terms of the present Settlement Agreement."

8. Mr. Ved Pal Rana, learned counsel appearing on behalf of the applicant herein, submitted that the applicant is the widow of one Mr. Jayant Joon, another son of defendants no. 1 and 2. He submits that the suit was instituted by the plaintiff in collusion with the defendants, with the sole intent of depriving the applicant of her rightful share in the family property.

9. Learned counsel for the applicant further submitted that the plaintiff is



in fact, the adopted son of defendant no. 3 and her husband, and therefore, a declaration that he was the son of defendants no. 1 and 2 could not have been made. He submitted that various legal documents clearly established the factum of such adoption of the plaintiff, and that the applicant had a strong case for setting aside the compromise decree.

10. Learned counsel for the applicant further submitted that although the applicant was not a party to the suit, she has *locus standi* to challenge the impugned compromise decree since the same, being on the basis of a collusive agreement, affects her right to a share in the family property. He further submitted that the sole intent of the plaintiff was to deprive the applicant of her rightful share in the family property.

11. In pursuance of order dated 15.07.2025, the applicant placed on record, an affidavit dated 26.07.2025 stating how the impugned compromise deed affects her rights. In the said affidavit, she states that if the plaintiff is deemed to be the son of defendants no. 1 and 2, he will be deemed to have a share in the properties of defendant no. 1. If the plaintiff is deemed to actually have been adopted by defendant no. 3, only defendant no. 2 and the applicant herein would be his Class-I legal heirs.

12. Mr. Anand Yadav, learned counsel for the plaintiff, vehemently opposed the submissions advanced by the applicant.

13. He submitted, at the outset, that the applicant herein, not being a party to the suit, has no *locus standi* to impugn the compromise decree. He asserted that the applicant has not established how the compromise decree affects her rights. He further contended that the claim that the plaintiff, through the impugned compromise decree, was seeking a share in the family property of defendants no. 1 and 2 was unsustainable. Under Section 12 of



the Hindu Adoption and Maintenance Act, 1956 (HAMA), even if, without prejudice to the plaintiff's case, it is assumed that he had, in fact been adopted by defendant no. 3, the rights that vested in him prior to his supposed adoption would continue even after the said adoption. This, he asserted, would mean that the plaintiff would be entitled to a share in the coparcenary property as it existed at the time of the alleged adoption. Thus, according to him, the applicant's right to a share in the family property would not be affected regardless of whether the plaintiff had been adopted or not.

14. He also pointed out that the applicant had not specified the properties in respect of which, her rights would be affected, and that merely on the basis of bald averments, she cannot claim to have *locus standi* to challenge the impugned compromise decree.

15. Learned counsel for the plaintiff further submitted that the assertion on behalf of the applicant, that the plaintiff was the adopted son of defendant no. 3 and her husband, was unfounded. He asserted that the recording of incorrect names as the plaintiff's parents in legal documents would not lead to any assumption that the plaintiff was adopted, and that the same had to be supported by strong evidence.

16. I have considered the contentions advanced on behalf of the parties and perused the record.

17. The primary objection to the maintainability of the present application, being that the applicant does not have any *locus standi* to challenge the impugned compromise decree, is addressed at the outset.

18. In the circumstances of the case, it is evident that the applicant, being a Class-I legal heir as per Schedule I to the Hindu Succession Act, 1956,



would be entitled to a share in the property of her husband. The said husband, would in fact, be entitled to a share in the joint family property, if any, and even the self-acquired property of defendants no. 1 and 2.

19. Further, even if Section 12 of the HAMA is taken into consideration, the applicant's rights over the properties of her in laws, defendants no. 1 and 2, would stand affected by the impugned compromise decree, if the plaintiff is actually an adopted son of defendant no. 3. Section 12 of the HAMA is extracted below for reference:

“12. Effects of adoption.—

An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family:

Provided that—

(a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth;

(b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth;

(c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption.”

20. A perusal of proviso (b) of the aforesaid provision indicates that only such properties, which vested in the adopted child at the time of his adoption, would continue to vest in him despite the factum of such adoption. Rights that would have vested in him subsequently, if he had not been adopted, do not fall within the aforesaid category. In case the plaintiff is found to be the adopted son of defendant no. 3, the self-acquired properties of defendants no. 1 and 2, upon their death, would devolve on the legal heirs of their only son Mr. Jayant Joon. The applicant herein is the only legal heir of Mr. Jayant Joon. However, if the plaintiff is in fact, the son of defendant



no. 1 and 2, the said properties would have to be divided between the plaintiff and the applicant herein.

21. Moreover, there is a plethora of judgments rendered by various High Courts, wherein, it has been held that an adopted child will not have any right even in the coparcenary property of his biological family unless, a partition has been effected before his adoption, and his share therein has crystalized. Referring to the pre-requisite of ‘vesting’ in clause (b) of Section 12 of HAMA, the Courts have held that undivided shares in a coparcenary property do not vest any right in the coparceners so as to continue to vest in the adopted child, after his adoption. Reference can be made to the decision of the Supreme Court in the case of *Santosh Kumar Jalan Alias Kanhaya Lalvs Chandra Kishore Jalan And Anr*,¹ a decision of the High Court of Karnataka in *Bheesmaraja, S/O Pandurangappa Ellur vs Smt.Radhabai, W/O Late Ellur*,² and a decision of the Telangana High Court in *Anumolu Nageswararao vs A.V.R.L. Narasimharao*.³ The question whether an adopted son has any vested interest in the coparcenary property of his biological family even after his adoption, therefore, is a moot question. It is, thus, clear that the *locus standi* of the applicant is not divested by the effect of the provision of Section 12 of the HAMA.

22. Further, although the applicant, not being a party to the suit, would not directly be bound by the impugned compromise decree, she would nonetheless be constrained by the effects of the same insofar as her rights flowing through defendants no. 1 and 2 are concerned, since they were

¹1969 (2) SCC 544

²2023:KHC-K:5412

³2023 SCC OnLine TS 4494



parties to the suit. Therefore, the applicant seems to have *locus standi* to challenge the compromise decree, impugned herein.

23. The applicant, having alleged that the impugned compromise decree was a result of collusion between the parties to the suit, is bound to discharge the burden of proving the said assertion.

24. Under Order XXIII Rule 3 of the CPC, the Court is required to be satisfied that the compromise/settlement agreement on the basis of which a decree has been passed, is lawful. The requirements of a lawful contract, as under the Contract Act, 1872, are also to be satisfied by the compromise agreement before being accepted by the Court. The said rule is reproduced below, for reference:

“3. Compromise of suit.—Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the parties or where the defendant satisfied the plaintiff in respect to the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject-matter of the suit:

Provided that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question; but not adjournment shall be granted for the purpose of deciding the question, unless the Court, for reasons to be recorded, thinks fit to grant such adjournment.

Explanation.— An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 (9 of 1872), shall not be deemed to be lawful within the meaning of this rule.”

25. Therefore, it is clear that a compromise decree is passed by the Court only after careful consideration of the compromise agreement and upon satisfaction that the same fulfils all the requisites under the aforesaid rule. This being so, the burden of proving that the compromise decree was a



result of collusion between the parties, lies very heavily, on the applicant.

26. The Supreme Court, in its judgment in *Arjunagoua v. Ashok Basavappa Basarkod*,⁴ held that the burden of proving that a compromise decree was obtained on the basis of fraud or misrepresentation lay very heavily on the person seeking its setting aside. This Court is of the opinion that the burden on the applicant herein, to establish that the compromise agreement based on which the impugned decree was passed, was collusive, is just as heavy, for the reason specified in the preceding paragraph.

27. Without making any observation on the merits of the present application, the Court is of the opinion that the applicant must be allowed to lead evidence to discharge the burden of establishing that the parties to the suit had collusively instituted the suit and entered into the compromise agreement, in order to defeat her rights.

28. List before the concerned Joint Registrar for recording of evidence in accordance with the extant rules on 10.11.2025.

I.A. 16496/2025 (BY APPLICANT - FOR BRINGING ON RECORD ADDITIONAL DOCUMENTS)

1. The applicant, vide the instant application, seeks to place on record certain documents purportedly necessary for the adjudication of I.A. 6980/2022. I.A. 6980/2022 was filed by the applicant seeking the setting aside of the compromise decree dated 21.10.2020.

2. The documents sought to be placed on record *vide* the instant application are as follows:

- a. Certified copy of reference petition under Section 18 of the Land Acquisition Act;

⁴ (2007) 15 SCC 784



- b. Certified copy of Report of the Land Acquisition Collector dated 3 February 2010 filed in LAC No. 478A/08 titled Pratap Singh vs. UOJ wherein the details of the legal heirs of Sh. Krishan Joon have been mentioned;
- c. Certified copy of application under Order XXII Rule 3 of Code of Civil Procedure, 1908 (CPC) filed by Smt. Roshni Devi i.e. mother of the Plaintiff in LAC 714A/08 for impleading the legal heirs of Sh. Krishan on record;
- d. Certified copy of Order dated 29th March 2010 passed by Sh. Sanjeev Kumar, ADJ-01, Rohini Courts, Delhi in LAC No. 714A/08 wherein the aforementioned application under Order XXII Rule 3 of CPC was allowed;
- e. Certified copy of Judgement/Decree of the Ld. Trial Court dated 12th January 2011 allowing LAC No. 714A/08;
- f. Certified copy of execution petition LAC EX NO. 5777 of 2019 titled Pratap Singh (Deed.) through LRs vs. Union of India & Ors. filed by the legal heirs of Sh. Pratap Singh for the execution of judgment/decree dated 12th January 2011 passed in LAC No.714A/08;
- g. Copy of the Will executed by Sh. Krishan S/o Sh. Pratap Singh in the favour of his wife i.e. Defendant No.3;
- h. Copy of the Written Statement filed on behalf of the Plaintiff and Defendant nos. 1 and 2 in Complaint u/s 12 of Domestic Violence Act, 2005;
- i. A copy of the Plaintiff's Aadhar card and Pan card wherein it is stated that he is the son of Sh. Krishan and not Defendant nos. 1



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and2;

3. The aforesaid documents seem to be relevant to the adjudication of I.A. 6980/2020. Hence, the same are taken on record. It is pertinent to mention that the question of genuineness of the documents has not been adjudicated herein, and the same may be looked at, during the course of trial.

4. Accordingly, the instant I.A. stands allowed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTMEBER 01, 2025

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