A

MADAN LAL

v.

MST. GOPI & ANR.

B

August 29, 1980.

[Y. V. CHANDRACHUD, C.J., S. MURTAZA FAZAL ALI AND A. D. KOSHAL, JJ.]

C *Civil Procedure Code,* 1908, *Sec.* 100—*Findings of fact recorded by the final Court of facts—Competency of the High Court to interfere with findings—when arises.*

A deed of adoption was executed by one M on August 10, 1944 stating that he had adopted the appellant. A suit to challenge this deed was filed contending that M was not in a fit state of mind when he executed the deed. The suit was dismissed by the Trial Court and this order was confirmed by the District Court. In second appeal the High Court set aside the judgments of D the Courts below and decreed the suit.

Earlier M had executed another deed of adoption in favour of the appellant, but the Registrar refused to register that deed on the ground that the executant appeared to him to be a lunatic. The matter was remanded by the Mahakma Khas to the Registrar with a direction that the executant be recalled and the question decided afresh. The Registrar thereupon examined the executant and E finding him unable to understand the simplest questions put to him, and giving wholly incorrect answers to elementary questions like whom he had adopted, reaffirmed his pre-remand view and refused to register the deed.

A Suit was then brought by the appellant on September 11, 1940 for the compulsory registration of the aforesaid deed of adoption. A written statement was filed on behalf of M admitting the appellant's claim that he was F validly adopted. The authority of that admission having been challenged, the High Court, in revision, examined the matter further and directed that an appropriate issue has been framed on the question. After the remand, the Joint Kotwal passed an order on January 4, 1944 holding M was not of sound mind and was incapable of protecting his interest in the suit. The High Court agreed with the findings of the Joint Kotwal.

G On appeal by special leave, and dismissing the appeal, it was,

HELD : (1) Apart from the bald assertion that the appellant was taken in adoption, the deed does not mention the year, the date or the place of adoption. It does not either mention the names of persons who were present at the time of adoption. In fact there is no evidence whatsoever to show when and where the adoption took place and even whether the necessary ceremonies were performed. [597 C-D]

H (2) The real drift of the plaint is that M was not in a fit state of mind at the relevant time, that no adoption could have taken place in fact and that, therefore, the deed of adoption cannot confer on the appellant the rights of an adopted son. [597 E]

(3) The argument that M was in a fit state of mind when he executed the deed cannot be accepted. Indeed the halting evidence of the doctor, one of the witnesses, throw a cloud on the mental capacity of M and renders it improbable that he could perform or authorise the performance of the act of adoption or that he could have executed it with an understanding mind. His mental faculties were evidently too enfeebled to enable him to enter into a transaction which in law has a religious-*cum*-spiritual significance and which, in a wordly way, affects valuable rights to property. [597 F-H]

(4) The trial court and the District Court wholly ignored the weight of prepondering circumstances on the record and allowed their judgments to be influenced by inconsequential matters. The High Court was, therefore, justified in re-appreciating the evidence and coming to its own independent conclusion on the basis of that evidence. [H]

(5) The situation here was of an exceptional character, where evidence which was incapable of supporting more than one conclusion was considered as justifying a conclusion which no reasonable Tribunal could rationally reach. This judgment will not be a charter for interference by the High Courts with findings of facts recorded by the Final Court of facts. [598 B-C]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 219 of 1970.

Appeal by Special Leave from the Judgment and Decree dated 30-4-1969 of the Rajasthan High Court in S. B. Civil Regular Second Appeal No. 569/65.

S. M. Jain, S. K. Jain and *Indira Makwana* for the Appellant.

R. K. Garg, V. J. Francis and *Sushil K. Jain* for the Respondent.

The Judgment of the Court was delivered by

CHANDRACHUD, C.J.—A deed of adoption is alleged to have been executed by one Mansaram on August 10, 1944, stating that he had adopted the appellant, Madan Lal. A suit to challenge that deed was dismissed by the trial Court. The learned District Judge, Jodhpur, confirmed the judgment of the trial Court but in second appeal No. 569 of 1965, a learned single Judge of the Rajasthan High Court set aside the judgment of the Courts below and decreed the suit. By this appeal by special leave, the defendant questions the correctness of the High Court's judgment dated April 30, 1969.

The principal point of controversy involved in the suit was whether Mansaram was in a fit state of mind when he executed the deed of adoption. This, substantially, is a question of fact but we find that the trial Court and the District Court wholly ignored the weight of preponderating circumstances on the record and allowed their judgments to be influenced by inconsequential matters. The High Court was, therefore, justified in reappreciating the evidence and in coming to its own independent conclusion on the basis of that evidence.

A Earlier, Mansaram had allegedly executed another deed of adoption in favour of the appellant Madan Lal but the Registrar refused to register that deed by his order Exhibit 2 dated January 29, 1940 on the ground that Mansaram, who presented the deed for registration, appeared to him to be a lunatic. The matter was remanded by the Mahakma Khas to the Registrar with a direction that Mansaram be B recalled and the question whether the deed should be registered decided afresh. The Registrar thereupon examined Mansaram and passed an order Exhibit 3 dated July 14, 1940, stating that Mansaram, no doubt, appeared to be a little better but that, while at one time he talked like a sane man, he would, on occasions, fall into a reverie C and was completely lost to the world. The Registrar noted that Mansaram was unable to understand the simplest questions put to him, that he took an unreasonably long time to answer those questions and gave wholly incorrect answers to elementary questions like whom he had adopted and whether he himself was married or unmarried. The Registrar, therefore, reaffirmed his pre-remand view and refused to D register the deed.

A suit was then brought by the appellant on September 11, 1940 for the compulsory registration of the aforesaid deed of adoption. The Court of Joint Kotwal (No. 2), in which the suit was filed, was, concededly, a regular Civil Court of competent jurisdiction at the E relevant time. A written statement was filed in that suit by one Shri Raj Narain, advocate, on behalf of Mansaram admitting the appellant's claim that he was validly adopted by Mansaram. The authority of that admission having been challenged, the learned Chief Justice of the High Court, sitting in revision, made an order Exhibit 15 dated August 16, 1941, stating that the matter did not appear to him to F be "absolutely clear". He observed that Mansaram claimed to be an M.A. in English though, in fact, he did not understand a simple sentence in English. The learned Chief Justice, therefore, examined the matter further and made an order Exhibit 18 dated December 4, 1941, directing that an issue be framed on the question whether Mansaram was of sound mind and was capable of protecting his own G interest in the suit. After the remand, the learned Joint Kotwal recorded the statement of Mansaram on December 14, 1943. That statement is at Exhibit 5. Mansaram's wit and wisdom is reflected in a part of that statement wherein he said that he was 65 years of age and that his mother was about 50 years old. When the fundamental absurdity of this hypothesis was pointed out to him, he made a feeble H attempt to correct himself by saying that his mother may be of 70 years of age. In fact, the record of the evidence given by Mansaram before the Joint Kotwal shows that he gave, at one time, an impression

that his mother was alive and was living with him although, admittedly, she had died long since. In the circumstances, the Joint Kotwal passed an order on January 4, 1944 (which was the only order to pass) that he had no hesitation in holding that Mansaram was not of sound mind and was incapable of protecting his interest in the suit. The learned Judge formed the impression, which he recorded in the proceedings, that Mansaram was tutored to make certain statements on the questions arising in the suit and that he looked like a "frightened animal". A B

The deed of adoption dated August 10, 1944, which is impugned in the present suit, contains a bald assertion that Mansaram had taken the appellant Madan Lal in adoption. But, significantly, the deed does not mention the year, the date or the place of adoption. It does not either mention, as adoption deeds generally mention, the names of persons who were present at the time of adoption. In fact, on the record of this case there is no evidence whatsoever to show when and where the adoption took place and even whether the necessary ceremonies were performed. We cannot accept the submission, though strongly pressed upon us by Shri Sobhagmal Jain who appears on behalf of the appellant, that what the plaintiff had challenged in the suit was the validity of the deed of adoption and not the factum of adoption. On a broad and careful reading of the plaint we are left in no doubt that the real drift of the plaint is that Mansaram was not in a fit state of mind at the relevant time, that no adoption could have taken place in fact and that, therefore, the deed of adoption cannot confer on the appellant the rights of an adopted son. C D E

Relying on the evidence of Somdatt D.W. 2, Shri Raj Narain D.W. 6, a lawyer, Moolraj D.W. 9 and Dr. Umraomal, D.W. 10, Shri Sobhagmal Jain argues that Mansaram was in a fit state of mind when he executed the impugned deed. We are unable to accept this submission. Indeed, the halting evidence of Dr. Umraomal itself throws a cloud on the mental capacity of Mansaram and renders it improbable that he could perform or authorise the performance of the act of adoption or that he could have executed the deed of adoption with an understanding mind. His mental faculties were evidently too enfeebled to enable him to enter into a transaction which in law has a religious-*cum*-spiritual significance and which, in a worldly way, affects valuable rights to property. The High Court has examined every facet of the evidence with great care and we are in agreement with the learned Judge that Mansaram was not in a fit state of mind when he executed the deed of adoption. He could F G H

A not have, possibly, understood the nature and consequences of what he was doing.

In the result, the appeal fails and is dismissed but there will be no order as to costs.

B May we add that this judgment, properly understood, will not be a charter for interference by the High Courts with findings of facts recorded by the final Court of facts. The situation, here, was of an exceptional character where evidence which was incapable of supporting more than one conclusion was considered as justifying a conclusion which no reasonable tribunal could rationally reach.

Appeal dismissed.

C

N.K.A.