



2026:AHC:162775



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 11407 of 1983

Ram Kripal

.....Petitioner(s)

Versus

J.D.C. and others

.....Respondent(s)

Counsel for Petitioner(s)	: B.n.mishra, Dhananjai Prasad, H.n. Shukla, R.r. Shukla, Sunil Kumar Mishra, U.k.pandey
Counsel for Respondent(s)	: Ajay Kumar Singh, Ashish Kumar Singh, Birendra Kumar, Himanshu Dubey, P.k. Dubey, S.C., S.niranjan

Along with

WRIT - B No. - 6580 of 1986

Ram Kripal

.....Petitioner(s)

Versus

Ramji and others

.....Respondent(s)

Counsel for Petitioner(s)	: Dhananjay Prasad, Dhanraj Prasad, H.n. Shukla, R.r.shukla, S.niranjan, U.k. Pandey, U.k.pandey
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Counsel for Respondent(s) : Ajay Kumar Singh, Ashish Kumar Singh, Birendra Kumar, Himanshu Dubey, S.C., Sankatha Rai

AFR

Reserved on 21.5.2026

Delivered on 30.7.2026

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Sunil Kumar Mishra, learned Counsel for the petitioners in both the aforementioned writ petitions, Mr. Ashish Kumar Singh, learned Senior Counsel assisted by Mr. Birendra Kumar, learned Counsel for the private respondent no.4 in Writ B No. 11407 of 1983 as well as private respondent no.1 in Writ B No. 6580 of 1986 and learned Standing Counsel for the State respondents.

2. Common question of law and facts are involved in both the aforementioned writ petition, as such, both the writ petitions are clubbed and heard together.

3. Brief facts of the case are that disputed property in Writ B No. 11407 of 1983 is khata no. 96 situated in Village Rasauli, Tehsil- Meja, District Allahabad now Prayagraj. Disputed property in Writ B No. 6580 of 1986 are khata nos. 123, 84, 364, 365 of Village Jawania, Pargana Khairagarh, Tehsil- Meja, District Allahabad now Prayagraj, Khata no. 98 of Village Keshavpatti, Pargana- Khairagarh, Tehsil- Meja,

District Allahabad now Prayagraj, khata no. 108 of Vilalge-Atawaria, Pargana- Khairagarh, Tehsil Meja, District Allahabad now Prayagraj. In the basic year of consolidation operation, khata no. 96 was recorded in the name of Ram Kripal son of Balbhaddar, Ramji adopted son of Murlidhar, Paras Nath son of Sheo Naik and ram Kishore son of Sheo Naik, Khata no. 84, 364, 365 were recorded in the name of Ramji as adopted son of Murlidhar, khata no. 123 was recorded in the name of Mahadeo, khata no. 108 was recorded in the name of Ram Kripal and others, khata no. 98 was recorded in the name of Ramji as adopted son of Murlidhar. In respect to basic year entry of khata no. 96, an objection under Section 9A (2) of U.P. Consolidation of Holdings Act, 1953 hereinafter referred to as U.P.C.H. Act was filed by Ram Kripal with the allegation that Murlidhar has died issueless and his share was inherited by his widow Smt. Moti Rani but after the death of Smt. Moti Rani, the name of Rami was wrongly recorded as adopted son of Murlidhar, as such, his name should be expunged. According to Ramji, he was adopted by Smt. Moti Rani vide adoption deed dated 2.8.1960, as such, inherited the share of Murlidhar over khata no. 96. Consolidation Officer vide order dated 20.10.1973 rejected the objection filed by Ram Kripal and allowed the claim of Ramji holding that Ramji is adopted son of Murlidhar and Smt. Moti Rani. Appeal filed by Ram Kripal against the order dated 20.10.1973 was dismissed by Settlement Officer of Consolidation vide order dated 29.12.1973. Revision under Section 48 of U.P.C.H. Act filed by

Ram Kripal was allowed by Deputy Director of Consolidation vide order dated 22.5.1974 holding that Ramji is not adopted son of Smt. Moti Rani and Murlidhar. Against the revisional order dated 22.5.1974, writ petition no. 3315 of 1974 was filed by Ramji which was allowed vide judgement dated 30.1.1981 setting aside the revisional order dated 22.5.1974 and matter was remanded back before revisional Court to decide the revision afresh. In pursuance of the judgement of this Court dated 30.1.1981, the revision was heard afresh and the same was dismissed vide order dated 9.9.1983. Hence Writ B No. 11407 of 1983 in respect to khata no. 96 of Village Rasauli has been filed for the following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari quashing and setting aside the order of the Joint Director of Consolidation dated 9.9.1983, that of the Settlement Officer of Consolidation dated 29.12.1973 and the order dated 20.10.1973, passed by the Consolidation Officer.

(ii) Issue a writ, order or direction in the nature of writ as this Hon'ble Court may deem fit and proper under the circumstances of the case.

(iii) Stay meanwhile the dispossession of the petitioner from the disputed plots in pursuance of the order dated 9.9.1983 passed by the Joint Director of Consolidation Allahabad."

4. In respect to the dispute of khata no. 123 of Vilalge Jawania and khata no. 108 of Village Atawaria, Ramji filed objection under Section 9A (2) of U.P.C.H. Act with the allegation that aforementioned khata are ancestral, as such, his name should be recorded as co-sharer being adopted son of Moti Rani. Consolidation Officer vide order dated 13.12.1983 held that name of Ramji be entered over khata no. 123 of Village Jawania and khata no. 108 of Village Atawaria as a co-sharer. Appeal under Section 11 (1) of U.P.C.H. Act filed by Ram Kripal against the order of Consolidation Officer was heard and dismissed by Settlement Officer of Consolidation vide order dated 12.12.1984 holding that Ramji is adopted son of Murlidhar. Ram Kripal filed a revision under Section 48 of U.P.C.H. Act before Deputy Director of Consolidation which was heard and dismissed by Deputy Director of Consolidation vide order dated 8.4.1986. Hence Writ B No. 6580 of 1986 has been filed by Ram Kripal in respect to khata no. 123 etc. of Village Jawania khata no. 98 of Village-Keshavpatti and khata no. 108 of Village- Atawaria for the following relief:-

"A writ in the nature of certiorari setting aside and quashing the orders dated 13.12.1983 passed by Consolidation Officer dated 12.12.1984 passed by the learned S.O.C. and dated 3.4.1986 passed by the learned D.D.C. Allahabad and further."

5. This Court admitted the Writ B No. 11407 of 1983 on 20.9.1983 and issued notice to the respondents.

6. Writ B No. 6580 of 1986 was admitted on 24.7.1986 and operation of the impugned orders were stayed as well as dispossession of the petitioner from the land in dispute was stayed but after hearing the Counsel for the parties, the ex-parte interim dated 24.7.1986 was vacated by this Court on 16.12.1987.

7. Learned Counsel for the petitioner submitted that adoption deed set up by Ramji cannot be relied upon as requirement of Section 16 of Hindu Adoption and Maintenance Act 1956 were not fulfilled. He further submitted that lacuna in the adoption deed cannot be removed by examining the independent witnesses. He submitted that consolidation authorities have failed to discharge their jurisdiction in proper manner, as such, impugned orders passed in both the writ petition should be set aside. He further submitted that the remand order passed by this Court in writ petition no. 3315 of 1974 has not been taken into consideration in proper manner by the revisional Court. He further submitted that after death of Murlidhar, name of his widow Smt. Moti Rani was recorded in the place of Murlidhar, as such, adoption deed set up by Ramji cannot be taken into consideration. He submitted that both the writ petitions should be allowed on the ground set up in the respective writ petitions and claim of Ramji on the basis of adoption deed alleged to be executed on 2.8.1960 should be rejected.

8. On the other hand, learned Counsel for the contesting respondent- Ramji in both the aforementioned writ petitions

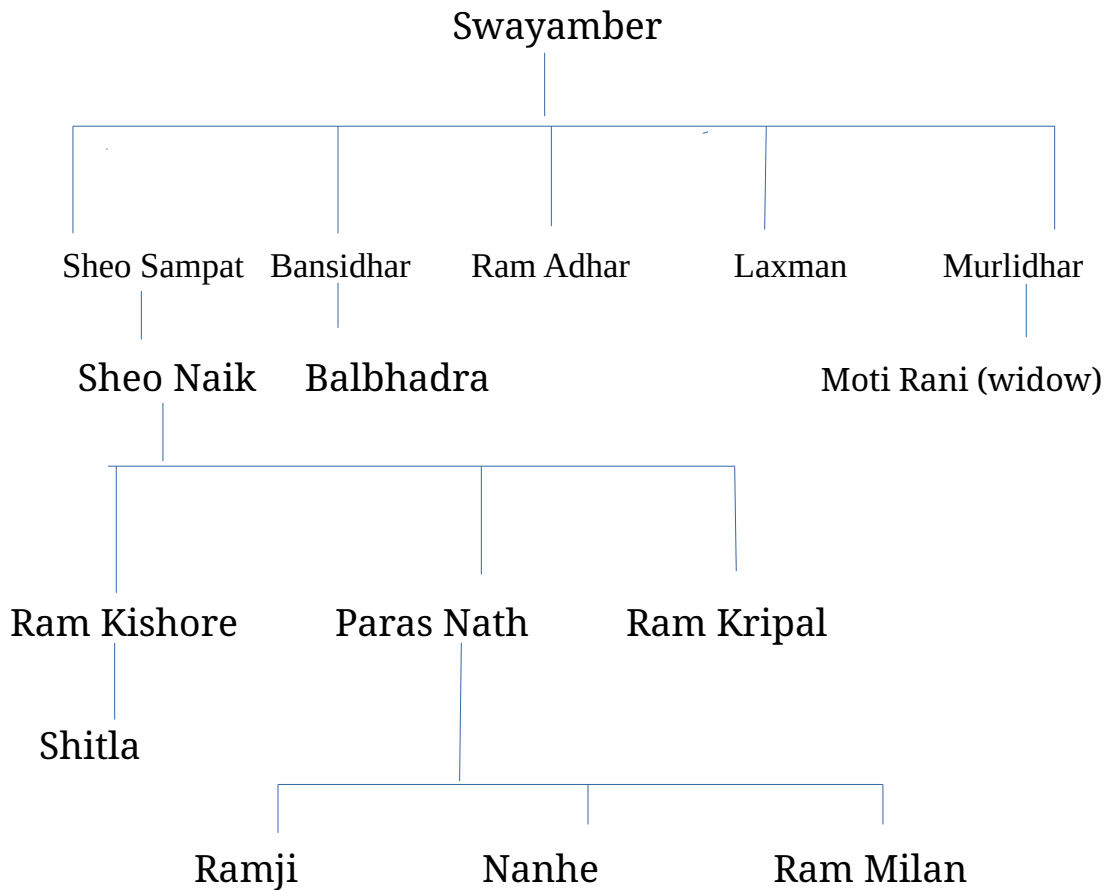
submitted that all the three consolidation authorities in both the aforementioned writ petitions have concurrently held that adoption deed dated 2.8.1960 was properly executed in favour of Ramji, as such, Ramji is entitled to be recorded over the khata in dispute on the basis of adoption as adopted son of Smt. Moti Rani. He further submitted that this Court while allowing the Writ B No. 3315 of 1974 filed by Ramji as adopted son of Murlidhar has remanded the matter before Deputy Director of Consolidation to decide the revision afresh in the light of the observation made in the body of the judgement. He submitted that Deputy Director of Consolidation in pursuance of the judgement of this Court dated 30.6.1981 has dismissed the revision holding that adoption deed was properly executed in favour of Ramji, as such, Ramji is entitled to inherit as adoption son of Murlidhar. He submitted that in view of the categorical finding of fact recorded by all the consolidation authorities, there is no scope for interference under Article 226 of the Constitution of India.

9. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

10. There is no dispute about the fact that Consolidation Officer, Settlement Officer of Consolidation and Deputy Director of Consolidation in both the aforementioned writ petition have held that Ramji is adopted son of Murlidhar and Smt. Moti Rani and Ramji is entitled to inherit as adopted son of Murlidhar and Smt. Moti Rani.

11. In order to appreciate the controversy involved in the matter, the perusal of family pedigree as mentioned in paragraph no.4 of Writ B No. 6580 of 1986 will be relevant which is as under:-

Pedigree



12. The perusal of all the issues framed before the Consolidation Officer in respect to khata no. 96 of Village Rasauli will be relevant which is as under:-

१- क्या राम जी का नाम खाता 96 में गोदनामा के आधार पर फरजी दर्ज है।

२- क्या राम जी का गोदनामा फरजी है।

३- क्या राम जी पुत्र पारसनाथ का नाम खाता नम्बर 96 में फरजी दर्ज है।"

13. Consolidation Officer on the basis of evidence adduced by the parties has held that objection of Ram Kripa with respect to khata no. 96 cannot be allowed as Ramji is adopted son of Murlidhar on the basis of adoption deed dated 2.8.1960. The order of Consolidation Officer was maintained in appeal but by the earlier revisional order, the order passed by Consolidation Officer and Settlement Officer of Consolidation were set aside accordingly this Court allowed the writ petition filed by Ramji setting aside the revisional order and matter was remitted back before revisional Court with direction that revisional Court cannot reverse the finding recorded by the subordinate authorities on irrelevant consideration. In pursuance of the order of this Court, Deputy Director of Consolidation has dismissed the revision recording finding that adoption deed set up by Ramji is fully proved and Ramji will be treated as adopted son of Murlidhar.

14. Perusal of the operative portion of judgement of this Court dated 30.1.1981 passed in Writ B No. 3315 of 1974 by which revisional Court was directed to decide the revision afresh, will be necessary which is as under:-

“ In view of what has been discussed above the order of the Deputy Director of Consolidation cannot be sustained in law and deserves to be quashed as it is based on certain irrelevant considerations and ignoring the

relevant evidence on record which were relied upon by the subordinate consolidation authorities. See Suraj Rai and Others Vs. Deputy Director of Consolidation and Others (civil misc. writ petition no. 1753 of 1976 decided on 21.12.1976), (civil misc. writ petition no. 1753 of 1976 decided on 21.12.1976).

In the result, the petition succeeds and is accordingly allowed. The order of the Deputy Director of Consolidation dated 22.5.1974 is quashed and the Deputy Director of Consolidation is directed to decide the revision afresh according to law and in the light of the observation made above. The parties shall, however, bear their own costs.

Dated/ January 30, 1981

Shyam Behari.”

15. Perusal of the relevant portion of the revisional order dated 9.9.1983 passed in pursuance of the judgement of this Court will also be necessary which is as under:-

“4- माननीय उच्च न्यायालय के निर्णय के अवलोकन से यह स्पष्ट होता है कि माननीय उच्च न्यायालय ने यह निर्देश दिया है कि चूंकि आपत्तिकर्ता के रामजी को मुरलीधर का दत्तक पुत्र दिखलाया गया है, अतः जिसकी मान्यता है कि गोद लेने की रस्म की गई थी पर यह विपक्षी को साबित करने का अधिकार प्राप्त है कि यह साक्ष्यों के आधार पर यह सिद्ध करे कि गोद लेने की रस्म नहीं हुई थी। कहने का तात्पर्य यह है कि माननीय उच्च न्यायालय के निर्णय के अनुसार जब तक रामकृपाल आदि विश्वसनीय प्रमाण के आधार पर यह सिद्ध नहीं करते कि

रामजी को नियमानुसार गोद नहीं लिया गया था, तब तक यह बात स्वीकार की जावे कि रामजी मुरलीधर के दत्तक पुत्र हैं। माननीय न्यायालय ने एक विविध प्रश्न भी निर्णय हेतु खुला छोड़ दिया है। यह वह है कि हिन्दू एडॉप्शन एंड मेंटेनेंस एक्ट की धारा 12 के अनुसार रामजी, जिनको मु० मोती रानी ने अपने पति मुरलीधर की मृत्यु के पश्चात गोद लिया कहते हैं, केवल मु० मोती रानी के दत्तक पुत्र माने जाएँगे और इस प्रकार मुरलीधर की संपत्ति जो वरासतन मु० मोती रानी को मिली थी, में कोई अधिकार प्राप्त नहीं होगा अथवा जब मुरलीधर के दत्तक पुत्र माने जाएँगे और इस हैसियत से उन्हें मुरलीधर की संपत्ति में पूर्ण अधिकार प्राप्त होगा।

5- निगरानीकर्ता ने सर्वप्रथम गोद लेने की बात को गलत बताया तथा गोद लेने की बात को गलत साबित करने के लिए निगरानीकर्ता की ओर से ही रामकृपाल ने तथा विजयनंदन का बयान कराया गया है। इसके अलावा चकबंदी अधिकारी ने समक्ष लाला राम कॉलेज से संबंधित रजिस्टर की प्रमाणित प्रतिलिपियाँ, मतदाता सूची एवं कुटुंब रजिस्टर के साधारण तथा वार्षिक खतौनी 1371-73 मीटर दाखिल किया गया है, जो कि चकबंदी अधिकारी के आदेश की प्रतिलिपि से विदित होता है। जहाँ तक वादी के गवाह विजयनंदन का प्रश्न है, वह मु० मोती रानी के ग्राम का नहीं है, अपितु इस ग्राम में अपना ननिहाल बताया है पर अपने बयान में इसने उस ग्राम के विषय में अपनी जानकारी के लिए अपने को अनभिज्ञता प्रकट की। विजयानंद के बयान के प्रतिलिपि पत्रावली पर उपलब्ध है, जिसके अवलोकन से स्पष्ट होता है कि उसे रसोली ग्राम के संबंध में कोई खास जानकारी नहीं है। इसके अलावा रामकृपाल के बयान की प्रतिलिपि भी उपलब्ध है। रामकृपाल स्वयं एक पक्ष है, अतः इनके बयान के गोद की रस्म होने अथवा न होने के लिए स्वतः साक्ष्य नहीं कहा जा सकता, अपितु इस प्रकार इस पर विश्वास करने के लिए स्वतंत्र साक्ष्य की आवश्यकता होगी। इन्होंने अपने बयान में यह स्वीकार किया है कि गोदनामा के विषय में रामजी और इनके माध्यम में मुकदमा तहसीलदार लेविल तक चला था और अंततोगत्वा राजस्व परिषद तक गया। तहसीलदार के न्यायालय से रामजी को मुरलीधर का दत्तक पुत्र स्वीकार किया गया था। रामकृपाल की ओर से अन्य कोई गवाह नहीं प्रस्तुत

किया गया है जो यह कहे कि मोती राम ने रामजी को गोद नहीं लिया था। जैसा ऊपर कहा गया है, माननीय उच्च न्यायालय के समीक्षण के अनुसार यह रामकृपाल का दायित्व था कि वह यह साबित करे कि मु० मोती रानी ने रामजी को गोद नहीं लिया था। माननीय उच्च न्यायालय ने यह भी समीक्षा किया है कि जब तक उपर्युक्त गोद लेने की बात विश्वसनीय साक्ष्य के आधार पर गलत न सिद्ध हो जाए, तब तक इस बात को मान्यता दें कि रामजी मुरलीधर के दत्तक पुत्र हैं। इस संबंध में यह भी उल्लेख है कि रामजी की ओर से गोदनामा प्रस्तुत किया गया तथा रघुवीर एवं श्यामाचरण गोदनामे के गवाहों के बयान भी कराये गए हैं। इतना ही नहीं, स्वयं रामजी एवं इनके जन्मदाता पिता पारसनाथ ने भी शपथपूर्वक बयान कराया गया है। निगरानीकर्ता के विद्वान वकील ने यह तर्क प्रस्तुत किया कि चूंकि गोदनामे में गोद लेने वाले के माता-पिता का हस्ताक्षर नहीं है तथा गोदनामे का रस्म संबंधित उपस्थित व्यक्तियों के नाम नहीं हैं, इसलिए यह नहीं माना जा सकता कि वैधानिक ढंग से गोदनामा हुआ है। अपने बयान की पुष्टि में विद्वान वकील ने ए.आई.आर. 1980 सुप्रीम कोर्ट के पृष्ठ 1254 पर छपी माननीय उच्च न्यायालय की व्यवस्था की ओर इंगित किया। इस व्यवस्था को पढ़ने से यह प्रकट होता है कि माननीय उच्च न्यायालय के सम्मुख जो मामला विचाराधीन था, उसमें प्रमुख बिंदु यह था कि गोद लेने वाला व्यक्ति स्वस्थ बुद्धि का है अथवा नहीं। इस बिंदु पर उपलब्ध साक्ष्य का सीमांकन करते हुए माननीय उच्च न्यायालय ने यह समीक्षा दिया है कि तत्संबंधित गोदनामा में गोद लेने की वर्ष, तिथि एवं गोद लेने के स्थान पर उल्लेख नहीं है। इसके अतिरिक्त गोदनामे में इस बात का भी उल्लेख नहीं था कि गोद लेते समय कौन-कौन व्यक्ति उपस्थित थे। वर्तमान गोदनामे में गोद लेने की तिथि 2 अगस्त सन 60 अंकित है तथा गोद लेने का स्थान का भी आभास कभी इस गोदनामे में उपलब्ध है कि जिसको कि मु० मोती रानी ने अपने ग्राम में गोद लिया। इसके अलावा गवाहान ने यह स्पष्ट रूप से कहा है कि मोती रानी ने अपने घर पर गोद लिया था, गोद की रस्म सही थी, पूजा-पाठ एवं हवन हुआ था। स्वयं रामजी के जन्मदाता पिता ने इस बातों की पुष्टि अपने ज़बान से किया है। अतः यह स्पष्ट हो जाता है कि माननीय उच्च न्यायालय द्वारा दी गई व्यवस्था के अनुकूल इस

मामले में गोद लेने की कार्यवाही की गई है। अतः उपर्युक्त विवेचन के आधार पर मैं इस मत का हूँ कि रामकृपाल द्वारा ऐसे कोई विश्वसनीय साक्ष्य न ही प्रस्तुत किए गए हैं, जिससे यह विरुद्ध हो सके कि मु० मोती रानी ने रामजी को नियमानुसार गोद नहीं लिया था। प्रस्तुत पत्रावली पर उपलब्ध साक्ष्य से यह सिद्ध होता है कि मु० मोती रानी ने रामजी को वैधानिक ढंग से गोद लिया था।

6- दूसरा प्रश्न जो विचारणीय है वह यह है कि मु० मोती रानी द्वारा गोद लिए जाने के फलस्वरूप क्या रामजी मु० मोती रानी के मृतक पति मुरलीधर के दत्तक पुत्र जाने जाएँगे तथा रामजी को मुरलीधर की संपत्ति में अधिकार प्राप्त होगा? इस संबंध में निगरानीकर्ता के विद्वान वकील की यह तर्क है कि हिन्दू एडॉप्शन एंड मेंटेनेंस एक्ट की धारा 12 एवं 14 के अनुसार रामजी केवल मु० मोती रानी के दत्तक पुत्र माने जाएँगे तथा मु० मोती रानी के मृतक पति मुरलीधर के दत्तक पुत्र नहीं माने जाएँगे और इस प्रकार रामजी विवादित भूमि के स्वामी नहीं हो सकते। अग्रतर यह भी कहा गया है चूंकि विवादित भूमि मु० मोती रानी को उनके पति की मृत्यु के बाद वरासत में मिली थी, अतः रामजी विवादित भूमि के स्वामी नहीं हो सकते। रामजी के विद्वान वकील ने इस तर्क का खंडन करते हुए यह कहा कि धारा 12 एवं 14 के इस प्रकार का कोई उल्लेख नहीं है कि पति के मृत्यु के बाद यदि पत्नी किसी लड़के को गोद लेती है तो वह लड़का केवल उस महिला का दत्तक पुत्र होगा और उसके मृतक पति का दत्तक पुत्र नहीं होगा। इसके विपरीत रामजी के विद्वान वकील ने यह तर्क दिया कि कानून का सुनिश्चित मत यह है कि पति की मृत्यु के बाद यदि पत्नी किसी को गोद लेती है तो गोद में लिए गए संतान उसके मृतक पति का भी दत्तक संतान माना जावेगा। अपने बयान की पुष्टि में विद्वान वकील ने आर.डी. 1966 पृष्ठ 255 पर प्रकाशित माननीय उच्च न्यायालय की व्यवस्था की ओर इंगित किया, जिसके अवलोकन से यह स्पष्ट होता है कि पति की मृत्यु के बाद पत्नी द्वारा गोद लिया गया पुत्र उसके मृतक पति का दत्तक पुत्र होगा इसी आशय की उच्च न्यायालय की व्यवस्था ए आई आर 1967 सुप्रीम कोर्ट के पृष्ठ 1781 पर छपी है। ऐसी परिस्थितियों में यह सिद्ध हो जाता है कि राम जी मु० मोती रानी मृतक पति मुरलीधर का दत्तक पुत्र है।

7- उपर्युक्त समीक्षा से यह स्पष्ट हो जाता है कि राम कृपाल यह सिद्ध करने में असफल रहे कि मु० मोती रानी ने राम जी की गोद नहीं लिया था, अपितु इस तथ्य को साबित करने के लिए पत्रावली पर पर्याप्त साक्ष्य उपलब्ध है कि मु० मोती रानी ने राम जी को वैधानिक ढंग से गोद लिया था। राम कृपाल की उपर्युक्त असफलता के कारण माननीय उच्च न्यायालय की समीक्षा के अनुसार मु० मोती रानी द्वारा राम जी को गोद लेने का तथ्य स्वयं सिद्ध हो जाता है क्योंकि आधार वर्ष की खतौनी में इस प्रकार का उल्लेख होने के कारण मु० मोती रानी व राम जी को गोद लिए जाने का मान्यता प्राप्त है। जहां तक इस प्रश्न का संबंध है कि राम जी वर्णित परिस्थितियों में मुरलीधर मृतक पति मु० मोती रानी के दत्तक पुत्र नहीं माने जाएंगे, माननीय उच्च न्यायालय द्वारा की गई व्यवस्था जिसका ऊपर उल्लेख किया गया है के अनुसार राम जी मुरलीधर के दत्तक पुत्र हैं। अतः अधीनस्थ न्यायालय के राम जी को मुरलीधर का दत्तक पुत्र स्वीकार करते हुए मुरलीधर का वैधानिक उत्तराधिकार मानकर कोई गलती नहीं ही है। उपर्युक्त कारणों से राम कृपाल की निगरानी में कोई बल नहीं पाकर उसे निर्णित किया जाता है।

ह० आर० पी० दीक्षित

दिनांक 9-9-83 संयुक्त संचालक चकबन्दी, इलाहाबाद।”

16. Perusal of the earlier judgement of this Court dated 30.1.1981 and impugned revisional order dated 9.9.1983 as quoted above fully demonstrate that adoption deed dated 2.8.1960 is fully proved and Ramji was rightly recorded as adopted son of late Murlidhar as Smt. Moti Rani widow of Murlidhar has adopted the Ramji on 2.8.1960. Perusal of the impugned revisional order further demonstrate that before consolidation operation in the mutation proceeding, the Ramji was found as adopted son of late Murlidhar on the basis of adoption deed executed on 2.8.1960. The provision of

Hindu Adoption and Maintenance Act 1956 was also taken into consideration by the consolidation authorities in holding that Ramji was adopted by Smt. Moti Rani widow of Murlidhar on 2.8.1960, as such, Ramji will inherit the share of Murlidhar.

17. This Court in the case reported in **1966 RD 255 Subhash Misir U/G of Sri Janardan Tewari Vs. Thagai Misir** has held that the son adopted by widow after the death of husband will be treated to be adopted son of husband also. Paragraph nos. 9 to 13 of the judgement rendered in **Subhash Misir (Supra)** will be relevant for perusal which is as under:-

“ 9. It is true that if the amendment suggested by the Writer is introduced, well and good. Even in absence of such an amendment, in my opinion, interpreting [sections 12](#) and [14](#) one could safely hold that in cases covered by the suggested amendment at 14(6) the adopted son would be deemed to be the son of the deceased husband of the widow. It would be very harsh if in such a case the adopted son who severs all his connections from the family of his birth does not get anything in the adoptive family on the ground that he is adopted by the widow.

10. In Madras even before the Act under the old Hindu Law a widow could adopt without the permission of her husband and the various authorities of the Madras High Court would show that such adopted son was always treated as the son of the husband of the widow. In my opinion, the same status should be given to the adopted son after the passing of the Act in other provinces as well. In 'Introduction to Modern Hindu Law' by J. Duncan M. Derret we find in paragraph 180 of that book that the learned author after dealing with [Sections 12](#) and [14](#) of the Act has opined that for the purposes of inheritance and maintenance an adopted child is precisely upon the same footing as a legitimate child. According to this view also as soon as

the adopted son of the widow is held to be the legitimates son the widow's husband would be deemed to be the father of the adopted child.

11. For the reasons given above my conclusion is that the adopted son of a widow would be deemed to be the son of her husband and on her death would inherit the bhumidhari property as the heir of her husband by virtue of Sections 171 and 172 of the U. P. Zamindari Abolition and Land Reforms Act.

12. The lower appellate court erred in holding that the appellant did not succeed to the bhumidhari property left by Smt. Sahebzadi. Having accepted the adoption he should have decreed the suit.

13. The result of my findings is that plaintiff gets the property left by Smt. Sahebzadi and since there is a finding of the lower appellate court that the defendant is neither sirdar nor adhvasi nor an asami. The possession, if any, of the defendant is that of a trespasser and he is liable to ejectment. Accordingly this appeal succeeds. The plaintiff's suit for declaration that he is the Bhumidhari of the plots in suit and for possession is decreed with costs throughout.

18. Apex Court in another case reported in **AIR 1967 SC 1761 Sawan Ram Vs. Mst. Kalawanti and Others** has considered the scope of Section 12 of Hindu Adoption and Maintenance Act 1956. Paragraph no.9 of the judgement rendered in **Sawan Ram (Supra)** will be relevant for perusal which is as under:-

“It may, however, be mentioned that the conclusion which we have arrived at does not indicate that the ultimate decision given by the Andhra Pradesh High Court was in any way incorrect. As we have mentioned earlier, the question in that case was whether E, after the adoption by D, the widow of B, could divest C of the rights which had already vested in C before the adoption. It is significant that by the year 1936 C was the sole male member of the Hindu joint family

which owned the disputed property. B died in the year 1924 and A died in 1936. By that time, the [Hindu Women's Rights to Property Act](#) had not been enacted and, consequently, C, as the sole male survivor of the family became full owner of that property. In these circumstances, it was clear that after, the adoption of E by D, E could not divest C of the rights already vested in him in view of the special provision contained in clause (c) of the proviso to [s. 12](#) of the Act. It appears that, by making such a provision, the Act has narrowed down the rights of an adopted child as compared with the rights of a child born posthumously. Under the Shastric law, if a child was adopted by a widow, he was treated as a natural-born child and, consequently, he could divest other members of the family of rights vested in them prior to his adoption. It was only with the limited object of avoiding any such consequence on the adoption of a child by a Hindu widow that these provisions in clause (c) of the proviso to [s. 12](#), and [section 13](#) of the Act were incorporated. In that respect, the rights of the adopted child were restricted. It is to be noted that this restriction was placed on the rights of a child adopted by either a male Hindu or a female Hindu and not merely in a case of adoption by a female Hindu. This restriction on the rights of the adopted child cannot, therefore, in our opinion, lead to any inference that a child adopted by a widow will not be deemed to be the adopted son of her deceased husband. The second ground taken on behalf of the appellant also, therefore, fails. The appeal is, consequently, dismissed with costs.”

19. Considering the ratio of law laid down by Apex Court and this Court, there is no illegality in the exercise of jurisdiction by the consolidation authorities in holding that Ramji will inherit as adopted son of Smt. Moti Rani and Murlidhar.

20. In respect to plots situated in Village- Jawania, Keshavpatti and Atawaria, all the three consolidation authorities have concurrently held that Ramji was adopted

by Smt. Moti Rani vide adoption deed dated 2.8.1960, as such, Ramji will inherit the share of Murlidhar which is proper exercise of jurisdiction by consolidation authorities.

21. Considering the categorical finding of fact recorded by all the consolidation authorities in both the writ petition, there is no further scope for interference by this Court under Article 226 of the Constitution of India against the impugned orders passed by consolidation authorities.

22. Both the writ petitions are **dismissed** accordingly.

23. No order as to costs.

July 30, 2026
Vandana Y.

(Chandra Kumar Rai,J.)