



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Special Appeal Writ No. 666/2025

CNR: RJHC010398292025

URN: SAW / 1151U / 2025

Jitendra Kumar adopted son of Mohan Lal, Aged About 38 Years,
R/o New Gokulwadi (Heera Bhura Jaav), Sheoganj, Tehsil
Shivganj, District Sirohi, Rajasthan.

-----Appellant

Versus

1. The State of Rajasthan through the District Collector,
Sirohi, Rajasthan.
2. Nagar Palika Mandal, Shivganj, District Sirohi through Its
Chairman / President.
3. Executive Engineer, Nagar Palika Mandal, Shivganj,
District Sirohi.

-----Respondents

For Appellant(s)	:	Mr. Girish Kumar Sankhla.
For Respondent(s)	:	Mr. Ayush Gehlot for Mr. Rajesh Panwar AAG.

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MR. JUSTICE SANJEET PUROHIT

JUDGMENT

Reportable

16/07/2026

(Per Mr. Sanjeet Purohit, J):

1. Present special appeal has been filed challenging judgment
dated 17.01.2025 passed by learned Single Judge, whereby the
writ petition filed by appellant seeking compassionate appointment
on the basis of an adoption deed was dismissed.
2. Facts germane to present special appeal, as narrated by
learned counsel for the appellant, are that appellant is married to
the elder daughter of one Shri Mohan Lal, who was employed as
Jamadar with respondent - Nagar Palika Mandal, Sheoganj. During



his lifetime, said Shri Mohan Lal is stated to have executed an adoption deed dated 01.11.2012 and thereby adopted appellant as his son in the presence of witnesses. Shri Mohan Lal passed away on 03.11.2012, whereafter the adoption deed was registered posthumously on 17.12.2012 before the Sub-Registrar, Sheoganj, District Sirohi.

2.1 On the basis of aforesaid adoption deed, appellant submitted an application before respondent - Nagar Palika Mandal seeking appointment on compassionate grounds.

2.2 Vide communication dated 11.01.2013, respondent - Nagar Palika initially raised an objection to said adoption deed on the ground that signature of late Shri Mohan Lal marked upon the deed did not match with the signature available in the official records. In response thereto, Smt. Shanti Devi, widow of late Shri Mohan Lal, submitted representation dated 17.01.2013 requesting grant of compassionate appointment to appellant, and both daughters of late Shri Mohan Lal also submitted their consent letters supporting appellant's claim for appointment based on said adoption deed.

2.3 However, vide order dated 15.05.2013, respondent - Nagar Palika rejected appellant's application on the ground that appellant had failed to produce the required legal documents.

2.4 Aggrieved by said order dated 15.05.2013, appellant preferred writ petition before learned Single Judge, which was dismissed vide impugned judgment dated 17.01.2025.

2.5 Challenging order dated 15.05.2013 and judgment dated 17.01.2025, appellant has approached this Court by way of the present Special Appeal.



3. Learned counsel for the appellant submitted that appellant was entitled to compassionate appointment as adopted son of late Shri Mohan Lal, particularly in view of the adoption deed as well as the consent letters submitted by the other family members. It was argued that respondent – Nagar Palika erred in rejecting the application of appellant on the ground of having not produced a valid adoption deed, whereas appellant had already submitted the duly registered adoption deed before the respondent.

3.1 Learned counsel stated that, prior to his death, late Shri Mohan Lal remained hospitalized for more than 16 months. It was submitted that late Shri Mohan Lal died shortly after executing the adoption deed and since the same could not be registered during his lifetime due to ill health, therefore, the deed was registered soon thereafter in the presence of other family members. It was contended that such posthumous registration would not invalidate the adoption deed.

3.2 Learned counsel further submitted that although respondent authorities questioned the validity of said adoption under Section 10 of the Hindu Adoptions and Maintenance Act, 1956 ("the HAMA"), learned Single Judge failed to consider the statutory presumption of validity attached to a registered adoption deed under Section 16 of the HAMA.

3.3 It was also submitted that late Shri Mohan Lal was survived by his widow and two daughters, and appellant, being his adopted son and the only surviving male member of the family, was entitled to compassionate appointment, which has wrongly been denied to him.



3.4 Learned counsel also stated that, at the time of filing the writ petition, appellant was 27 years of age, and, further, he was 38 years old by the time the matter was finally decided; however, learned Single Judge erroneously observed in the impugned order that appellant was 42 years old at the time of filing the writ petition and 54 years old when the judgment was passed. It was, therefore, prayed that the present appeal deserves to be allowed.

4. Per contra, learned counsel appearing for the respondents, while supporting the impugned order of respondent – Nagar Palika rejecting appellant's application for compassionate appointment, submitted that the adoption deed was purportedly executed on 01.11.2012 - mere two-days prior to the death of Shri Mohan Lal on 03.11.2012, and was registered posthumously on 17.12.2012. Therefore, it was contended, no statutory presumption under Section 16 of the HAMA could be drawn in favour of appellant.

4.1 It was further contended that, even assuming appellant was 26 years old when he was adopted by late Shri Mohan Lal, the adoption itself is invalid in view of the provisions of Section 10 of the HAMA, which stipulates *inter alia* that a person above the age of 15 years or married cannot be taken in adoption. Although, learned counsel for the respondents fairly conceded that said section provides an exception to the age criteria where the customs or usage applicable to the parties concerned permit such adoption, learned counsel argued that neither the adoption deed nor the pleadings contain any averments regarding the existence of such customs or usage applicable to the family of late Shri Mohan Lal.



4.2 Learned counsel contended that the adoption deed in question was created after the death of late Shri Mohan Lal solely with a view to secure compassionate appointment in place of the deceased and that such forged documents defeat the very object of providing for compassionate appointment, namely, to provide immediate financial assistance to the genuine dependents of a deceased employee.

4.3 In support of his submissions, learned counsel for the respondents has placed reliance upon the judgment of the Hon'ble Supreme Court delivered in the case of **Atluri Brahmanandam (D) Thr. Lrs v. Anne Sai Bapuji** reported in **AIR 2011 SC 545**, as well as the judgment of the Division Bench of this Court at Jaipur Bench delivered in the case of **Kumari Vinita Sharma v. Union of India & Ors.**, decided on 15.01.2014.

5. Heard learned counsel for the parties and perused the material available on record.

6. The undisputed facts of the case are that appellant applied before respondent – Nagar Palika for seeking compassionate appointment in place of the deceased – Shri Mohan Lal claiming to be his adopted son. Said claim of adoption was based upon an adoption deed said to be executed on 01.11.2012 and registered posthumously on 17.12.2012. Respondents herein have questioned the validity of said adoption itself in view of Section 10 of the HAMA on the ground that appellant was admittedly married and above 15 years of age at the time of alleged adoption and thus was not eligible for adoption. Respondents have also disputed the applicability of the statutory presumption of validity of the registered adoption deed under Section 16 of the HAMA on the



ground that the deed was registered after the death of the adoptive father.

7. Before embarking upon consideration of the challenges thus raised against the validity of the adoption and the adoption deed, this Court, upon perusal of the material placed on record, finds that appellant, Jitendra Kumar, was married to the eldest daughter of late Shir Mohan Lal, Smt. Asha, and was thus his son-in-law. It is stated in the adoption deed placed on record that for nearly one and half years prior to the execution of the adoption deed, appellant had been residing with his in-laws. The recital of the deed records that, having no son of their own, late Shri Mohan Lal and his wife were desirous of adopting appellant as their "*adopted son-in-law*" (*God Jamai*), and when the proposal was put forth, appellant accepted the same in those very terms. Relevant recital of the adoption deed reads as below:

"यह कि मैं मोहनलाल कुछ समय से बीमारी से ग्रसित होने से अधिकांशतया मेरा स्वास्थ्य खराब रहता है तथा अब इस नश्वर शरीर का कोई भरोसा नहीं रहा है। न जाने कब भगवान के घर से संदेश आ जाये और मेरे प्राण पंखेरु उडकर इस सृष्टि में लीन हो जाये— इसलिये मुझ मोहनलाल एवं मेरी धर्मपत्नी श्रीमती शान्तिबाई ने आपस में बैठकर यह विचार किया कि मेरा घर इस दुनिया के लिये खुला रहे एवं मेरी बहन बेटियों के लिये उनका पीहर आबाद रहे तथा मेरा नाम इस दुनिया में रोशन रहे तथा मेरे साथ रह रहे मेरे जमाईसा जितेन्द्रकुमार को मेरा गोदी जमाई (घर जमाई) बनाया जावे तथा इसी प्रस्ताव में अमल करते हुये मैंने मेरे परिवार के समस्त लोगों को इससे अवगत कराया तथा करीब 15 दिन पूर्व मुझ मोहनलाल एवं मेरी धर्मपत्नी श्रीमती शान्तिबाई ने श्री जितेन्द्रकुमार पुत्र श्री सोहनलालजी परिहार जाति माली को हमारा गोदी जमाई कायम किया है तथा इसका





विधिवत गोदनामा आज रोज मैं अपने परिवार की सहमति से लिख रहा हूं तथा आज रोज घोषणा करता हूं कि मेरे जमाई जितेन्द्रकुमार आज के बाद जितेन्द्रकुमार गोद जमाई मोहनलाल पुत्र हंसाजी माली के नाम से जाना पहचाना व पुकारा जायेगा तथा पिछले डेढ़ वर्ष की भांति आज से मेरा समस्त व्यवहार कानूनी रूप से करेंगे तथा मेरा समस्त देना लेना देगा लेगा तथा मेरी बहन बेटियों के लिये मेरा घर हमेशा के लिये खुला रखेंगे तथा दुनिया में मेरा नाम रोशन करेंगे तथा वे समस्त कार्य करेंगे जो मेरा एक जायदा पुत्र करता है।

3. मैं जितेन्द्रकुमार पुत्र श्री मोहनलालजी परिहार, जाति माली, निवासी न्यू गोकुलवाडी— शिवगंज यह लिखकर जाहिर करता हूं कि मेरी शादी मोहनलालजी पुत्र श्री हंसाजी माली की पुत्री आशा के साथ हुई है तथा मेरे ससुरजी के कोई जायदा पुत्र नहीं है यानि मेरे कोई साला नहीं तथा उनके ईच्छा मुताबिक मैं अपनी पूर्ण स्वेच्छा से उनका गोदी जमाई हुआ हूं तथा आज के बाद मैं जितेन्द्रकुमार गोद जमाई मोहनलालजी पुत्र हंसाजी माली के नाम से जाना पहचाना एवं पुकार जाऊंगा एवं आज से कानूनन रूप से मैं ये समस्त कार्य करूंगा— जो आपका एक जायंदा पुत्र करता हैं— आपका समस्त देना लेना अब मेरा देना लेना रहेगा एवं आपकी बहन बेटियों हेतु हमेशा के लिये आपका घर खुला रखुंगा एवं उनके शादी, सगपण, मौत मरगत में समाज के रीति रिवाज मुजब शरीक होकर खर्चा करूंगा एवं आपका नाम इस दुनिया में आबाद रखुंगा एवं आपका नाम रोशन करूंगा। मेरे पिताजी व माताजी ने इस गोदनामा (ADOPTION DEED) पर अपनी पूर्ण सहमति दे दी है।”

The contents of the afore-quoted adoption deed, when read according to their plain and ordinary meaning, make it abundantly clear that the deed does not profess to adopt the appellant as a son. Rather, it discloses an unambiguous intention of late Shri Mohan Lal and his wife to adopt appellant as their **"God Jamai"**





(adopted son-in-law) and further declares that he shall thereafter be known by such status.

7.1. The construction of the deed thus presents a fundamental conceptual difficulty: We fail to comprehend the legitimacy of such adoption by which an existing/actual/real son-in-law is sought to be declared an adopted son-in-law. Adoption under the HAMA, or indeed under any other law governing adoption for that matter, is not a private arrangement under which parties may invent or customize familial relationships according to their own predilections. Adoption is an institution which confers legal status upon the parties concerned. One of the legally recognized consequences of adoption is that the adopted child is transplanted into the adoptive family as if the child were biologically born therein. Correspondingly, the only relationship capable of being brought into existence through adoption is that of an adoptive parent and adopted son or daughter. There is no legally recognized category of an "*adopted son-in-law*" or of the converse status of an "*adoptive father-in-law*" which can possibly be established through the institution of adoption.

Thus, if the deed is construed, strictly and literally, it must be held to be attempting to establish a status completely unknown to law. Such a declaration, whatever may have been the social motivation behind it, cannot attract the incidents of a valid adoption recognized under the HAMA.

7.2 Even if this Court were to construe the deed generously and assume, for the benefit of appellant, that the expression *God Jamai* was merely an improper choice of words and that the true intention was indeed to adopt appellant as a son, it would still be



impossible to reconcile the legal consequences arising therefrom with the governing statutory framework.

7.3 The various branches of Hindu Personal Laws, concerning marriage, adoption and succession, form a coherent whole. The effect and consequences of adoption, therefore, are not confined to the provisions of HAMA but will necessarily inform and impact the operation of the other branches of personal law as well.

7.4 In the case at hand, if this Court were now to recognize appellant as the adopted son of late Shri Mohan Lal, when admittedly appellant stood in the relationship of latter's son-in-law prior to said adoption, appellant would, in the eyes of law, become the brother of his own wife. Is it then to be assumed that the marriage between the appellant and the daughter of late Shri Mohan Lal, though valid at the time of solemnization, would continue alongside another relationship brought into existence between the same parties through the operation of adoption - one which is wholly inconsistent with the laws governing marriage? Such a consequence is neither contemplated nor permitted under the law and cannot receive judicial acceptance. Similar incongruities would arise in matters of succession and other rights and duties flowing from the status of family. Appellant's construction of the adoption deed thus unsettles the very foundations of the institution of family as organised under Hindu personal law. Consequently, whether the deed is construed literally or liberally and whether appellant is treated as the adopted son-in-law or the adopted son of late Shri Mohan Lal, the result remains the same: the alleged adoption cannot be recognized legally.



7.5 Moreover, even beyond this conceptual discombobulation, the deed does not stand the scrutiny of the applicable statutory provisions. Appellant admittedly was both a married person and well above fifteen years of age at the time of alleged adoption. Each of these circumstances independently, under the provisions of section 10 of the HAMA, renders a person incapable of being taken in adoption unless the adoption can be justified on basis of a valid custom or usage applicable to the parties. Neither the adoption deed nor the pleadings disclose the existence of any such custom.

7.6 Even otherwise, the HAMA stipulates that the customs or usages sought to be relied upon must be reasonable, certain and in conformity with the public policy of India. A custom that seeks to create a status wholly alien to the statutory conception of adoption while simultaneously unsettling the legal incidents of marriage and family relationships would find it difficult to satisfy those parameters.

7.7 In these circumstances, even the statutory presumption of validity contemplated under section 16 of the HAMA cannot come to the aid of the appellant as the adoption deed is *ex-facie* violative not only of the mandatory provisions of the Act, but also its foundational elements.

8. Furthermore, even if the contents of the deed are taken at their face value and it is accepted that the parties intended to declare appellant as the adopted son in law of late Shri Mohan Lal, the status thus created would still not entitle him to compassionate appointment in place of the deceased under the provisions of the Rajasthan Compassionate Appointment of



Dependents of Deceased Government Servants Rules, 1996 ("the Rules of 1996"), which apply *mutatis mutandis* to the municipalities under the Rajasthan Local Self Government Department.

8.1 Said Rules of 1996 specifically provide for compassionate appointment only to the dependents of the deceased Government Servant. Rule 2(c) provides the definition of "dependent" and reads as follows:

"2. Definitions: - In these rules, unless the context otherwise requires:-

(a)-(b).....

(c) "Dependent" means, -

(i) Spouse, or

(ii) Son including son legally adopted by the deceased Government servant during his/her life time, or

(iii) unmarried/widowed/divorced daughter including daughter legally adopted by the deceased Government servant during his/her life time, or

(iv) married daughter, if no other dependent of the deceased Government servant mentioned in clause (ii) and (iii) above is available, or

(v) mother, father, unmarried brother or unmarried sister in case of unmarried deceased Government servant,

who was wholly dependent on the deceased Government servant at the time of his/her death."

A bare reading of the definition makes it clear that the same is exhaustive and specifies the categories of persons who may claim compassionate appointment. The definition nowhere mentions a son-in-law or an adopted son-in-law. It must, therefore, follow that a son-in-law, whether real or adopted, is not eligible to claim compassionate appointment on the death of concerned Government Servant.





9. It must also be observed that appellant has not approached this Court with clean hands. Throughout the pleadings, appellant has described himself as adopted son of late Shri Mohan Lal, whereas the adoption deed clearly records that after the adoption, he was to be known as the adopted son-in-law (*God Jamai*) of Shri Mohan Lal. Notwithstanding the confusion stirred in our minds in unravelling the mechanics of such an adoption, this Court is of the opinion that, in any event, such a document, with its categorical recitals, cannot be construed as conferring upon the appellant the status of a legally adopted son.

9.1 Tellingly, the adoption deed itself records that, by way of the adoption, appellant would become entitled to compassionate appointment. Said recital is indicative of the oblique motive with which the deed was executed, namely, to enable appellant to secure compassionate appointment, knowing fully well that a son-in-law is otherwise not eligible for such appointment under the applicable Rules.

9.2 It is trite that the practice of compassionate appointment is an exception to the normal rule of recruitment. It is a beneficial provision intended to provide immediate financial relief to the family of Government Servant who dies while in service by offering employment to one of his genuine dependents. The learned Single Judge has thus rightly observed that such relief cannot be allowed to operate as an alternate mode of recruitment or as a back-door entry to employment in government services.

10. For all the aforesaid reasons, this Court is of the considered opinion that appellant's claim of compassionate appointment is unsustainable irrespective of the angle from which it is examined:-



- I. If the adoption deed is construed according to its plain language, it purports to create the status of an "*adopted son-in-law*"- a status unknown under the applicable law and incapable of attracting the legal recognition of a valid adoption.
- II. If, on the other hand, the deed is accorded the most liberal construction possible and is construed as intending to adopt appellant as a son, it falls within the statutory prohibitions contained in Section 10 of the HAMA, besides giving rise to conceptual inconsistencies wholly incompatible with the integrated framework of Hindu personal laws.
- III. Even otherwise, appellant would still fail to establish his entitlement under the Rules of 1996, which do not recognise a son-in-law, whether real or adopted, as a dependent so as to be eligible for compassionate appointment.

The appeal, therefore, fails at every level of scrutiny.

11. Consequently, we find no infirmity in impugned judgment dated 17.01.2025 passed by the learned Single Judge and the same is hereby upheld.

12. Present special appeal, being devoid of merit, is **dismissed**.

13. Stay application and all pending applications, if any, stand disposed of.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),ACJ

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