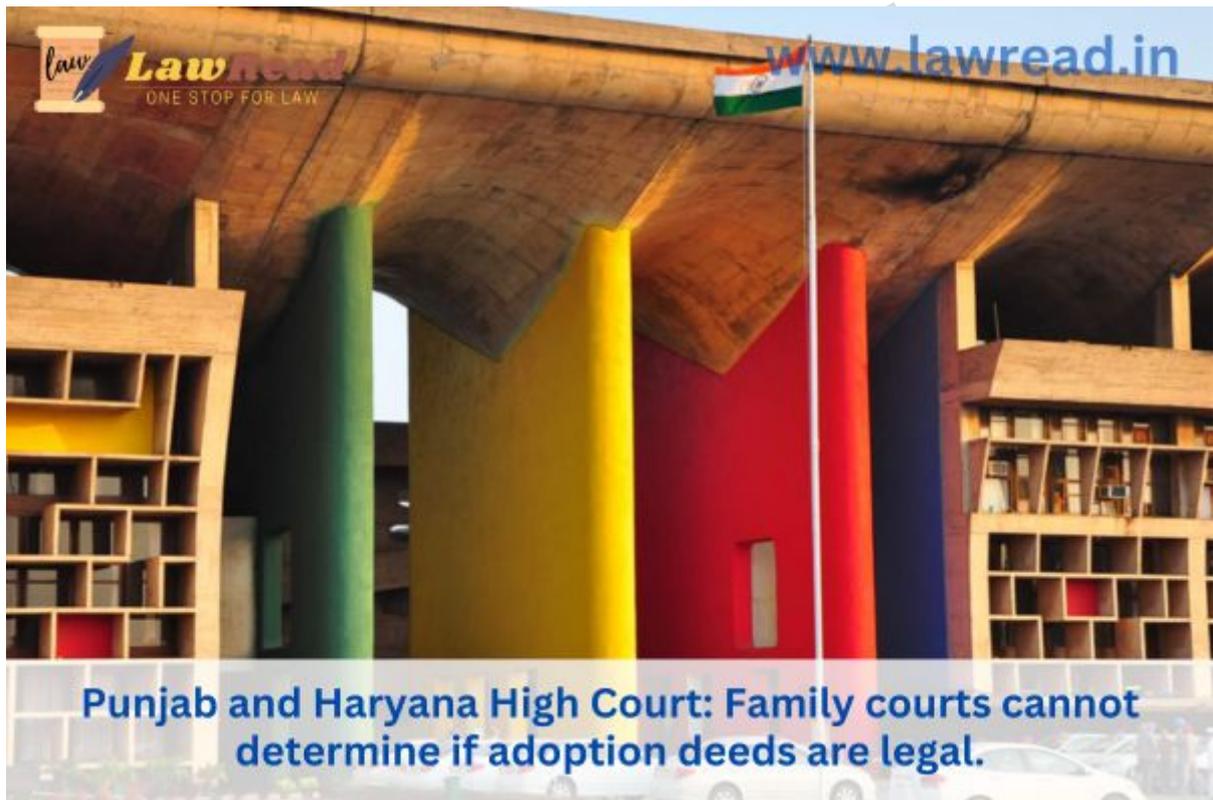


News

Punjab and Haryana High Court: Family courts cannot determine if adoption deeds are legal.



Under the Guardian and Wards Act of 1890, a man appealed to the High Court for guardianship of his nephew.

Family courts lack the authority to determine on the legality of an adoption deed, according to a recent ruling by the Punjab and Haryana High Court.

A man was appealing for guardianship of his nephew under the Guardian and Wards Act, 1890, before the bench of **Justices Anil Kshetarpal and Rohit Kapoor**.

A family court had previously decided that although the plea essentially contested the legality of an adoption deed, it was unable to take into account the "adoption" processes.

The High Court concurred with the ruling, pointing out that although the parliament gave family courts the authority to handle cases involving guardianship or custody of kids, it had not given them the authority to decide adoption-related issues.

This has been carried out in spite of the fact that, as previously stated, the Hindu Adoptions & Maintenance Act, 1956 governs both the "adoption" and the "maintenance" of individuals covered by Section 2. In light of the Family Courts Act's general framework, which requires a prompt, informal, and conciliation process that might not be appropriate for resolving disputes involving the legality of an adoption deed, the Court stated that the aforementioned exclusion was a conscience decision made by Parliament.

As a result, it dismissed the claim that family courts had presumed jurisdiction over adoption cases.

Because the adoption deed ultimately grants custody and guardianship of the minor child, the appellant's first argument that the issue of custody and guardianship always includes the issue of adoption is without merit. As a result, the family courts would have been deemed to have jurisdiction in adoption matters. A Special Court cannot be excluded from the Civil Court's jurisdiction by default; it must be explicitly granted to it.

In this instance, the paternal uncle petitioned to be appointed guardian of his nephew in 2019. This occurred following the minor's mother's marriage to another man and the death of his father in 2016.

In 2017, his mother placed the child for adoption, purportedly as payment for a loan her late husband had taken out. The family's paternal uncle claimed that a fraudulent adoption deed had been filed, which was void on multiple grounds.

The minor was living contentedly with his adoptive parents, but the mother claimed she was capable of placing him for adoption. She added that the child's paternal uncle is incompetent to act as guardian because he already has two children.

The High Court ruled that the paternal uncle's plea had been properly denied by the family court.

It denied the appeal as a result.

The appellant was represented by advocate Dr. Pankaj Nanhera.

The respondents were represented by Sanjiv Kumar Aggarwal, an advocate.

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