

## **Moot Problem**

*Mr. Swaroop, a Hindu and Ms. Honey, a Christian married in April, 2003 under Special Marriage Act, 1954. As they did not have any child till 2006, Swaroop proposed to adopt a girl child who was one year old, in January 2007. The adopted girl child was none other than Swaroop's own sister's daughter, who was already having two daughters and Honey reluctantly agreed to it. The girl was given in adoption by her natural father to Swaroop. The child was named "Niti". Post-adoption, Honey got adamant that they should have a child of their own genes. So they planned to have a child through surrogacy and in consultation with Dr. Morris in Delhi a surrogacy agreement was entered into with Ms. Neeta and they got a surrogated boy child, born on 1<sup>st</sup> September, 2008. As Honey wanted to name the child as Kevin and Swaroop wanted to name him as Rahul, the naming ritual was postponed for some time. Unfortunately Mr. Swaroop was involved in an accident and died on 15<sup>th</sup> October, 2008. Honey started calling the child as Kevin and got the name registered as Kevin on the birth certificate.*

*When Swaroop's father, Ashok Lal, expressed that Niti was entitled to a share in the property of Swaroop, Honey and her father replied that the said adoption was not valid as Honey was a Christian who could not adopt under Christian law and hence Niti would not get any share in Swaroop's property. Swaroop's father filed a suit on behalf of his granddaughter, Niti, for a share in Swaroop's property in the District Court and for a declaration that Kevin is not entitled to any share in his father's property as he is neither the natural or adopted son of Swaroop. The court through its order dated 1<sup>st</sup> April, 2009 held that there was a valid*

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*adoption and the adopted child, Niti, would be entitled to a share in Swaroop's property as Swaroop was entitled to adopt as per Hindu Adoptions and Maintenance Act, 1956 and his Christian wife's consent was irrelevant as per proviso to S.7 of the said Act. The District Court further refused to declare that Kevin was entitled to a share in Swaroop's property. Honey preferred an appeal before the High Court of Delhi challenging the validity of adoption on the ground that since their marriage was performed under Special Marriage Act, 1954, Swaroop had lost his right of adoption as a Hindu. She also has requested the Court to declare that Kevin has the same rights available to a natural born child as he was conceived with Honey's egg and Swaroop's sperm.*

*The matter is listed for final arguments. The memorials for the same need to be submitted, as per the rules of the Competition herewith*

DISCLAIMER: All names, characters, and incidents mentioned in this proposition are fictitious. No identification with actual persons (living or deceased) or places is unintended and a mere coincidence