



2025:UHC:6911-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Appeal No. 177 of 2024

06 August, 2025

Sarojni Devi Alias Soni Rawat

--Appellant

Versus

Parvati Devi and Others

--Respondents

Presence:-

Mr. Jagdish Singh Bisht, Advocate for the appellant.

Mr. Prabhakar Joshi, Advocate for respondent no.1.

Mr. Rajesh Sharma, Standing Counsel for Union of India.

Hon'ble Manoj Kumar Tiwari, J.

Hon'ble Subhash Upadhyay, J.

(Per: Hon'ble Manoj Kumar Tiwari, J.)

JUDGMENT

In this appeal, filed under Section 19 of Family Courts Act, appellant has challenged the judgment and decree dated 25.05.2024, passed by learned Judge, Family Court, Almora in Civil Case No. 20 of 2014 (T162/2022), "*Smt. Parvati Devi Vs. Government of India and others*". By the impugned judgment, respondent No.1 was declared to be legally wedded first wife of late Havaladar Dev Singh Rawat and the marriage of appellant with late Dev Singh Rawat during life time of his first wife, was declared as null and void. Senior Records Officer, Record Kumaon Regiment, Ranikhet was directed to pay family pension to the legally wedded first wife of late Havaladar Dev Singh Rawat.



2. Appellant has challenged the judgment rendered by learned Family Court on following grounds:

1) That plaintiff (respondent no.1) failed to lead any evidence in support of her contention that she was married to late Dev Singh Rawat in the year 1983, yet Family Court by completely overlooking the said aspect decreed her suit;

2) In her statement, plaintiff (respondent no.1) stated that her date of birth is 05.01.1972, which shows that, she was about 11 years of age at the time of her alleged marriage; and

3) The family Court overstepped its jurisdiction by directing the employer to pay Family Pension of late Dev Singh Rawat to plaintiff (respondent no.1).

3. Plaint of the suit filed by respondent No.1 is enclosed as Annexure-1 to the Interim Relief Application filed by appellant. In para 2 of the plaint, it is mentioned that marriage between plaintiff and late Dev Singh Rawat was solemnized on 21.06.1983 as per Hindu rites in village Dadholi (Thapla), Patti Malla Dora, Tehsil Dwarahat, District Almora.

4. In para 6 to 9 of the plaint, plaintiff referred to the application seeking maintenance filed by her and the amount which was paid as maintenance by late Dev Singh Rawat to her, pursuant to order passed by Judicial Magistrate, Ranikhet.

5. In para 11 of the plaint, it was mentioned that late Havaldar Dev Singh Rawat passed away on 04.07.2009, at his native village Kudoli (Thapla).



6. In para 18 of the plaint, it was stated that Senior Records Officer, Records Kumaon Regimental Centre, in reply to legal notice sent on behalf of plaintiff informed that name of some other lady, namely, Soni Rawat @ Sarojini Devi is mentioned in the records available with the Army, as legally wedded wife of late Havaladar Dev Singh Rawat.

7. Appellant made following statement in reply to averment made in para 1 and 2 of the plaint.

“1) That the contents of para 1 of the plaint are denied for want of knowledge to the extent they pertain to the ancestry of the Plaintiff. The averment pertaining to the demise of her “husband” is denied with the utmost vehemence. The Plaintiff is put to strict proof of her having ever being married to the late Dev Singh Rawat.

2) That contents of para 2 of the plaint are false, frivolous, concocted and denied most vehemently. It is specifically denied that the Plaintiff ever got married to late Dev Singh Rawat in the presence of her parents and relatives at the place averred in the para under reply. The Plaintiff is put to strict proof of the said averments.”

8. In para 9 of the written statement, appellant contended that she is the only legally wedded wife of late Dev Singh Rawat even as per the service records.

9. Based on the pleadings, learned Family Court framed following six issues:

1) Whether plaintiff is the only legally wedded wife of late Dev Singh Rawat? If yes then its effect?



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- 2) Whether marriage of late Dev Singh Rawat with defendant no.2, is void? If yes then its effect?
- 3) Whether plaintiff is entitled to service pension of late Dev Singh Rawat? If yes then its effect?
- 4) Whether Family Court has jurisdiction to hear the matter?
- 5) Whether plaintiff has paid sufficient court fees?
- 6) Relief, if any, which can be granted?

10. All the aforesaid issues were decided in favour of plaintiff and against defendant no.2/ appellant. For deciding issue no.1 in favour of plaintiff and against defendant no.2/ appellant, learned Family Court relied upon statement made by Dev Singh Rawat before Munsif Magistrate, Ranikhet in Misc. Criminal Case No.17 of 1993 "*Parvati Rawat Vs. Dev Singh*" filed under Section 125 Cr.P.C. In his statement before Munsif Magistrate, in the aforesaid proceedings, Dev Singh Rawat admitted that applicant (Parvati Devi) is his legally wedded wife. Learned Family Court also took note of the fact that in the case filed by respondent no.1 claiming maintenance, initially ₹500/- per month was granted as maintenance to respondent no.1, however, subsequently on her application filed under Section 127 Cr.P.C., the amount of maintenance was increased to ₹1,000/- per month vide order dated 27.09.2008.

11. Learned counsel for the appellant submits that even though Dev Singh Rawat in his statement admitted factum of his marriage with respondent no.1,



however, there was no evidence regarding date of marriage between Dev Singh Rawat and Parvati Devi (plaintiff). He submits that Parvati Devi, in her deposition before the Family Court, stated that her date of birth is 05.01.1972, therefore, in 1983 when she claims to have married to Dev Singh Rawat, she was only 11 years of age. Thus, he submits that claim made by Parvati Devi that she married Dev Singh in 1983 cannot be accepted.

12. Per contra, Mr. Prabhakar Joshi, learned counsel appearing for respondent no.1 submits that in paragraph no.2 of the plaint, his client not only stated that she is legally wedded wife of Dev Singh but date of her marriage with Dev Singh Rawat was also indicated. He submits that appellant in her written statement denied the assertion regarding marriage and stated that plaintiff is put to strict proof of averment regarding marriage, however, in view of admission made by Dev Singh Rawat in maintenance proceedings before Munsif Magistrate, Ranikhet, the statement made by appellant in her written statement gets belied and thus, not only the factum of marriage but also the date of marriage is proved. He further submits that appellant in her Examination-in-Chief changed her stand and stated that marriage of respondent no.1 with Late Dev Singh Rawat was not legal and further that appellant is the first wife of Late Shri Dev Singh.

13. The contention made by learned counsel for the appellant that in the absence of evidence regarding date of marriage, the finding returned on issue No. 1 is perverse, cannot be accepted. Dev Singh Rawat was



examined as witness before Munsif Magistrate, Ranikhet in maintenance proceedings and he conceded that Parvati Devi (respondent No. 1) is his legally wedded wife. Dev Singh Rawat could have taken a stand that he was earlier married to the appellant therefore his marriage with Parvati Devi is not legal; however, he did not take that plea. Dev Singh Rawat did not challenge the order passed in maintenance proceedings and also paid maintenance to respondent No. 1. In view of the admission made by Dev Singh Rawat before Munsif Magistrate, Ranikhet that respondent No. 1 is his legally wedded wife, the contention raised on behalf of appellant is devoid of merit.

14. The finding returned by learned Family Court on issue no.1 thus cannot be faulted.

15. Mr. Prabhakar Joshi further submits that since marriage of Parvati Devi with Dev Singh was solemnized in 1983 and Dev Singh married with appellant during lifetime of Parvati Devi, on 26.12.1990, therefore, in view of provision contained in Section 5(i) of Hindu Marriage Act, marriage of Sarojni Devi @ Soni Rawat (appellant) with Dev Singh is void. He thus submits that any interference with the impugned judgment and decree passed by learned Family Court would not be warranted.

16. *Per contra*, learned counsel for appellant submits that finding on question of jurisdiction is not correct as Family Court does not have jurisdiction to direct the employer to pay family pension to the plaintiff in proceedings under Family Courts Act.



17. In Paragraph No.12 of the impugned judgment, learned Family Court referred to determination on the question of jurisdiction made by learned Senior Civil Judge, Almora, vide order dated 07.12.2022, as the Suit was originally filed before Civil Judge and upon creation of Family Court in District Almora, the Suit was transferred to the Family Court. Learned Civil Judge held that the issue as to which of the two women claiming to be legally wedded wife of late Dev Singh Rawat, is entitled to family pension is cognizable by Family Court. We find no infirmity in the determination made on the question of jurisdiction.

18. Section 7 of Family Courts Act confers upon Family Court the entire jurisdiction exercisable by any district court or any subordinate civil court in respect of suits and proceedings of the nature referred to in the Explanation. A Family Court thus can decide on a dispute regarding family pension between two women, especially if it involves issues related to marriage, divorce or maintenance, which are typically within the purview of Family Courts. These Courts are designed to handle family related matters and dispute over family pension, especially those connected to marital status or family relationships, fall under their jurisdiction.

19. In case two or more women stake claim for family pension of a deceased employee, then such dispute can be decided only by a family Court as the Court will have to determine as to which of the claimants is legally wedded wife. Explanation to Section 7 of Family Courts Act enumerates the different suits and proceedings over which Family Court will have



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jurisdiction. The suit filed by respondent No. 1 will fall under clause (b) and clause (c) to the explanation of Section 7 of the Act.

20. Since there was a dispute between two women who were claiming to be wife of late Dev Singh Rawat, and validity of their marriage can only be decided by a Family Court, therefore, the Family Court will have incidental power to issue direction to the employer to pay family pension to the one who is found to be legally married with the deceased. Family pension is property and Family Court can very well decide property rights. Asking the party whose marriage was declared to be valid to approach some other judicial forum for seeking family pension would not only amount to travesty of justice but it would also be against public policy, as public policy demands that no one should be vexed twice and all the issues should be decided in one suit.

21. Thus, we do not find any infirmity in the impugned judgment, which may warrant interference. Thus, the appeal fails and the same is dismissed.

(Subhash Upadhyay, J.) (Manoj Kumar Tiwari, J.)

06.08.2025

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SUKHBANT SINGH

Digitally signed by SUKHBANT SINGH
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