

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.3773 OF 2012 (O&M)
DATE OF DECISION : 30th APRIL, 2015

Badlu Ram

.... Petitioner

Versus

Chameli Devi

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Vivek Khatri, Advocate for the petitioner.

Mr. R. A. Sheoran, Advocate for the respondent.

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SURINDER GUPTA, J. (ORAL)

1. Heard.
2. This revision petition challenges order dated 16.10.2012 passed by Family Court, Hisar whereby petition filed by Chameli Devi-respondent under Section 125 of the Cr.P.C. was allowed and the petitioner was directed to pay a sum of ₹3,000/- per month to the respondent as maintenance from the date of application.
3. The learned counsel for the petitioner has argued that family court has ignored this fact that respondent was not proved to be the legally wedded wife of petitioner. In support of his contention he has referred to the copy of the voter list produced on record as RW-4/A and hospital certificate RW-5/A showing the respondent as wife of Kapura.
4. On perusal of the lower Court judgment and the paper book it transpires that respondent has alleged her marriage with the petitioner more

than 35 years ago and out of marriage one son namely Nanu was born on 13.07.1979. She proved the above fact by placing on record the birth certificate of their son Ex.P-5 which has gone un-rebutted. There had been litigation between the parties which also depict their relationship. First such litigation was a civil suit No.323 of 1989 filed by Nanu Ram claiming himself to be the son of petitioner whereby he challenged the decree dated 14.02.1989 suffered by his father in favour of his uncle Sunder Singh. That suit was later on withdrawn vide order dated 06.04.1982 copy of which was placed on record as Ex.P-2. Nanu Ram claiming himself to be the minor son of petitioner-Badlu filed another suit for injunction through his mother against the petitioner to restrain him from alienating his 1/3rd share in the land measuring 119 Kanal 2 Marla situated in village Singhwa Ragho, Tehsil Handi, District Hisar which was decreed vide judgment dated 28.02.1986 Ex. P-4. That judgment admittedly attained finality as no appeal was filed by the petitioner-Badlu against that judgment. The above document clearly establish the relationship of the petitioner with respondent. The petitioner had also filed a suit No.345 of 1979 seeking the declaration that his marriage with respondent-Chameli Devi be declared as null and void as per customary divorce. That suit was dismissed by the Sub Judge, Hansi vide judgment dated 24.12.1983, copy of which was placed on record as Ex.P-3. However in appeal the plaint of the suit was ordered to be rejected for want of jurisdiction of the Civil Court. However, no further action in the matter was taken by the petitioner-Badlu Ram.

5. In view of the above documents Family Court has rightly drawn the conclusion that no reliance can be placed on the copy of the

voter list Ex.RW-4/A pertaining to the year 2004 or hospital certificate Ex.RW-5/A.

6. Learned counsel for the petitioner has further argued that in the suit filed by him Kapura had admitted his marriage with Chameli Devi, as such, this proves the plea taken by the petitioner that Chameli Devi was not his legally wedded wife. The above argument is also without merit. Firstly, because the admission by Kapura regarding his marriage with Chameli Devi is not binding on respondent; secondly, during the subsistence of the first marriage there could not be any Kareva marriage with Chameli Devi as alleged by Kapura; thirdly, even if there was any marriage of Chameli Devi with Kapura that was not a legal and valid marriage during the subsistence of marriage of Chameli Devi with petitioner.

7. In view of the above facts and circumstances, I find no legal or factual infirmity in the observations of the Family Court holding the respondent-Chameli Devi as wife of petitioner.

8. Regarding quantum of maintenance, no submissions have been made. Even otherwise, the petitioner holds a big piece of land, as such, the amount of maintenance is moderately reasonable.

9. This petition has no merits and the same is accordingly dismissed.

30th April, 2015
'raj'

(SURINDER GUPTA)
JUDGE