

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR (F) No.190 of 2013 (O&M)
Date of Decision:15.5.2015

Rani and others

....Petitioners

Versus

Karam Singh

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Gaurav Gaur, Advocate for
Mr. S.M. Sharma, Advocate for the petitioners.

None for the respondent.

NAVITA SINGH, J.

1. This revision filed by wife and minor children is directed against order dated 31.7.2013 passed by District Judge, Family Court, Ambala, whereby petition for grant of maintenance was dismissed.

2. The petitioners filed an application under Section 125 of the Code of Criminal Procedure for grant of maintenance from the respondent stating that petitioner Rani is wife and other petitioners are the children of the respondent. The wife was tortured by her husband i.e. the respondent and in April 2008 she left the matrimonial home and started living with her brother. Respondent refused to maintain his wife and children i.e. the petitioners though he was earning Rs.25000/- per month by running a grocery shop.

3. The matter was heard by the court below in the absence of the respondent as he did not appear despite service.

4. Counsel for the petitioners submitted that the trial Court wrongly dismissed the petition for maintenance on the ground that petitioner Rani led no oral or documentary evidence besides her own statement. The respondent had put up a resistance stating that Rani had started living separately and had

married someone else though he otherwise denied his relation with the petitioner. Rani was earlier married to one Baldev Singh and from that marriage she had a daughter.

5. The court held that the petitioners had not produced any proof regarding the marriage of Rani and Karam Singh and also regarding the other petitioners being the children of the respondent.

6. Counsel for the petitioners referred to Annexure P1, which is the copy of birth certificate of Rahul giving the name of mother as Rani and of father as Karam Singh and also he referred to Annexure P2, which is the copy of gift deed made by the father of the respondent for certain immovable property in favour of Rani where she was mentioned as wife of Karam Singh. The documents were, however, admittedly not produced before the court below. No request was made here for permission to lead further evidence before the trial Court. Rather such an application could not even be moved in a revision petition.

7. The petitioners, therefore, withheld the best evidence. The documents, which were in existence before evidence was led and were in possession of the petitioners, were not produced for which adverse inference is to be drawn against them. The trial Court rightly held that no documentary evidence was produced by the petitioners in support of their pleadings. No infirmity is found in the order of the court below as admittedly the petitioners did not lead proper evidence.

8. The petition is dismissed.

(NAVITA SINGH)
JUDGE

15.5.2015
ishwar