

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

**SAO No.43 of 2013 (O&M)
Date of Decision:19.02.2015**

Memuna

. . . . Appellant

Vs.

Bishmillah and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Satish Chaudhary, Advocate,
for the appellant.

Mr.Rakesh Dhiman, Advocate,
for respondent Nos.1 to 5.

RAKESH KUMAR JAIN, J.

This appeal is against the orders of the Courts below, allowing the petition filed by respondents No.1 to 5, under Section 372 of the Indian Succession Act, 1925 (for short 'the Act') for grant of succession certificate.

Respondents No.1 to 5 filed the petition under Section 372 of the Act alleging that Imrat son of Daud had passed away on 13.3.2006 at Village Aakera, Tehsil Nuh, District Mewat, leaving them behind as his legal heirs. He was a Government employee in the Department of Public Health and was posted as a fitter/helper at Ujina, Tehsil Nuh, District Mewat. The prayer was thus made for issuance of succession certificate.

The present appellant Memuna has alleged that though Bismillah/respondent No.1 was legally wedded wife of late Imrat but she was later on divorced and Imrat had performed second

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marriage with her. It is also submitted that with the union of Imrat, she has given birth to three children, namely, Shahrukh, Vishal and a daughter Armina.

The trial Court framed as many as seven issues and allowed the parties to lead evidence. Both the parties led their oral as well as documentary evidence. The trial Court allowed the petition of respondents No.1 to 5 on 29.11.2012, which was challenged by the present appellant by way of an appeal. The Appellate Court dismissed the appeal on 25.7.2013 observing that the appellant has failed to prove that Imrat had divorced Bismillah and performed the second marriage with her. She also failed to produce any Nikahnama and was not knowing the date, month or year in which the Nikah was performed or the persons in whose presence the ceremony of marriage was performed. She could not tell the place where the marriage was performed. In this background, the Court had found that the appellant has not come to the Court with clean hands. Insofar as the documents Ex.RW1/A and Ex.RW1/B are concerned, they were found to have been prepared by the appellant after the death of Imrat.

Learned counsel for the appellant has vehemently argued that the appellant has given birth to three children from the loins of Imrat, therefore, she is also his wife and entitled to the succession certificate.

On the other hand, learned counsel for the respondents has submitted that no evidence has been brought on record by the appellant to prove her marriage with Imrat or the alleged fact that Imrat had divorced respondent No.1.

After hearing both the learned counsel for the parties and examining the record, I am of the considered opinion that there is no error in the orders of the Courts below because no evidence, much less documentary, has been produced on record by the appellant to prove her marriage with Imrat and since, the documentary evidence, brought on record, was prepared after the death of Imrat, therefore, has no significance or relevance.

In view thereof, I do not find any merit in the present appeal and the same is hereby dismissed.

19.02.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**