

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

R.S.A No. 3275 of 2015 (O&M)

Date of decision:- 16.07.2015

Union of India & anr.

..Appellants

Versus

Parkasho Devi and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Pankaj Jain, Advocate
for the appellants

RITU BAHRI J.

C.M. Nos. 7894-95-C of 2015

For the reasons mentioned in the applications, delay of 33 days in filing and 39 days in re-filing the present appeal is condoned.

The application stands disposed of accordingly.

R.S.A No. 3275 of 2015

This regular second appeal is directed against the judgment dated 18.12.2014 passed by learned Addl. District Judge (Adhoc), Fast Track Court, Gurdaspur, whereby the appeal filed by the plaintiff-respondent No. 1 (for short 'respondent No. 1') against the judgment and decree dated 06.01.2011 passed by learned Civil Judge (Jr. Divn.), Gurdaspur was allowed.

Brief facts of the case are that the late Subedar Major Chanan Singh was married with Surinder Kaur, who expired on 01.11.1991 at Village Kilaspur Tehsil Pathankot, District Gurdaspur. Thereafter, Chanan Singh married respondent No. 1 on 17.01.1996 as per Hindu Rites and Rituals. Subsequently, Chanan Singh expired on 29.08.2003. Thus, from 17.01.1996 till 29.08.2003, respondent No. 1 and Chanan Singh lived together as legally wedded couple. No issue was born to them from this wedlock. After the death of Chanan Singh, respondent No. 1 applied with appellants for pension and other benefits of deceased as she was his legally wedded wife but the same have not been released to her. Hence, the suit.

Appellants filed their joint written statement and stated that respondent No. 1 is not a widow of late Subedar Major Chanan Singh. As per service record of Chanan Singh, Surinder Kaur was her legally wedded wife, who expired on 01.11.1991. The son of Chanan Singh i.e Surinder Singh also confirmed this, vide letter dated 20.04.2007 that respondent No. 1 is not a widow or second wife of Chanan Singh as she had never married him. Thus, she was not held entitled for the pension and other benefits of Chanan Singh. Chanan Singh had submitted a fake annexure mentioning Parkasho Devi-respondent No. 1 as his legally wedded wife for joint notification

regarding family pension. Respondent No. 1 had furnished an affidavit dated 21.07.2006 wherein she stated that Surinder Kaur w/o Chanan Singh had expired on 01.11.1991 but she also mentioned in the affidavit that she (respondent No. 1) is known by both names i.e Parkasho Devi and Surinder Kaur.

The learned trial Court dismissed the suit of respondent No. 1 on the ground that she was unable to prove on record by producing any cogent evidence that she is the second wife of deceased Chanan Singh. Although she has brought on record a certificate (Ex P12) issued by Pandit Bawa Dass but only photocopy of the document has been placed on record. Respondent No. 1 has not examined Pandit Bawa Dass to prove the document Ex P12. Further the affidavit Ex D5 given by respondent No. 1 to the effect that she was known by two names i.e Parkasho Devi and Surinder Kaur, was discarded by the trial Court as the witnesses examined by respondent No. 1 gave a contradictory statement i.e P.W.2 stated that name of respondent No. 1 is Parkasho Devi and Surinder Kaur was the earlier wife of deceased Chanan Singh and Parkasho Devi was never known as Surinder Kaur. P.W.3 Pooja admitted that respondent No. 1 is having two names and the second name of respondent No. 1 is Parkasho Devi.

On appeal filed by respondent No. 1, the lower Appellate Court accepted the appeal and reversed the findings given by the trial Court.

The Lower Appellate Court in its detailed judgment held that the learned trial Court had dismissed the suit of respondent No. 1 on the ground that the affidavit given by her is false and Surinder Singh son of Chanan Singh in his letter dated 20.04.2007 (Ex D2) stated that that respondent No. 1 is not a widow or second wife of Chanan Singh as she had never married him. But the learned trial Court failed to appreciate the documentary evidence in the shape of form Ex D4 which was brought on record by the appellants. It is a form of revision of pension submitted by the concerned employee Chanan Singh himself. It pertains to May, 2002 when he died in the year 2003. It contained in column No. 10 the name of respondent No. 1 as his surviving spouse. This document cannot be discarded as this was an official document. The suit was filed well within time by respondent No. 1 and it was held that merely on the ground that respondent No. 1 had given wrong information in affidavit Mark D1/Ex D5 that she is also known by the name of Surinder Kaur, her suit cannot be dismissed. Respondent No. 1 has duly proved that she was the legally wedded wife of Chanan Singh and Chanan Singh himself had disclosed

her name in his form i.e Ex D4, which was brought on record by the appellants themselves.

The judgment dated 18.12.2014 passed by learned Addl. District Judge (Adhoc), Fast Track Court, Gurdaspur, calls for no interference.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

16.07.2015

G Arora

(***RITU BAHRI***)
JUDGE