

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

**RSA No.4011 of 2015 (O&M)
Date of decision:20.05.2016**

Rajwant Kaur

... Appellant

Vs.

Surinder Pal Singh Sandhu

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Navjeet Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.9782-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 88 days in re-filing the appeal is condoned.

C.M. stands disposed of.

C.M.No.9783-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 02 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.4011 of 2015 (O&M)

The appellant-plaintiff is aggrieved of the dismissal of the suit seeking declaration that she is legally wedded wife of defendant-respondent

and consequential relief of permanent injunction restraining the defendant from contracting second marriage.

Mr. Navjeet Singh, learned counsel appearing on behalf of the appellant-plaintiff submits that he confines his prayer for compromise, in case, the matter is sent to the Mediation and Conciliation Centre of this Court for arriving at some amicable settlement.

I am of the view that suit with the aforementioned relief is not maintainable. Remedy, as per the provisions of Section 41(h) of the Specific Relief Act qua consequential relief of injunction was not maintainable. Even otherwise, plaintiff failed to lead oral and corroborative evidence to show that marriage had been performed with the defendant and appellant-plaintiff was continuing the status of wife, much less, of marriage. Having failed to do so, declaration as sought under Section 34 of the Specific Relief Act, 1963 to accord status of wife, rightly so has been declined. Once the plaintiff has failed to lead any evidence to prove the alleged marriage, the question of arriving at amicable settlement does not arise.

It is a matter of record that before filing of the suit in proceedings and respondent-defendant had obtained an ex parte divorce decree in USA and application for setting aside of the ex parte decree is still pending adjudication. I am of the view that suit was thus premature and remedy, if any, was to await the outcome of the application. In case, ex parte judgment and decree is set aside, of course, plaintiff would have a right in law to claim maintenance and various other relief as statute permits. Thus, in my view, the suit was totally premature in law.

For the foregoing reasons, no ground is made out for interference in the impugned judgments and decrees of the Courts below.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 20, 2016
savita