

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

Date of decision : November 13, 2017

1. R.S.A No.2798 of 2012 (O&M)
Jaspreet Kaur vs Manjit Kaur and others
2. R.S.A No. 3051 of 2012 (O&M)
Jaspreet Kaur vs Manjit Kaur and others
3. R.S.A No. 4850 of 2012 (O&M)
Manjit Kaur & another vs Jaspreet Kaur and others
4. R.S.A No.4851 of 2012 (O&M)
Manjit Kaur and another vs State of Punjab and others
5. R.S.A No.4852 of 2012 (O&M)
Manjit Kaur and another vs Jaspreet Kaur and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. M.S Balianwali, Advocate
for the appellant in RSA Nos.2798, 3051 of 2012

Mr. Binderjit Singh, Advocate
for the appellant/s in RSA Nos.4850-52 of 2012

Mr. R.K Singla, Advocate
for respondent No.7 in RSA No.3051 of 2012
for respondent No.6 in RSA No.4850 of 2012
for respondent No.5 in RSA No.4851 of 2012.

Mr. HS Sitta, AAG Punjab

Ajay Tewari, J (Oral)

This order shall dispose of the aforesaid five Regular Second

Appeals, since they arise from the same judgments and decrees of the

Courts below.

These appeals have been filed against the judgments and decrees of the Courts below whereby Manjit Kaur, her husband and Gurmeet Kaur have been held entitled to obtain the death-cum-retiral benefits of Randhir Singh.

Manjit Kaur and her husband filed a suit claiming that their son Randhir Singh was earlier married to Gurmeet Kaur but his marriage was annulled by a panchayati divorce and consequently they were entitled to claim all the death-cum-retiral benefits of Randhir Singh. Another suit was filed by Jaspreet Kaur claiming that she was the legally wedded wife of Randhir Singh and was entitled to obtain all the retiral dues of Randhir Singh. In this suit, Gurmeet Kaur was not a party. Both the suits were consolidated and decided together since they related to the death-cum-retiral dues arising out of the demise of Randhir Singh. The trial Court held that originally Randhir Singh was married to Gurmeet Kaur. It has been further held that the panchayati divorce between them would have no effect in law and that the marriage continued to subsist even after the panchayati divorce. The trial Court consequently partly decreed the suit of Manjit Kaur and her husband stating that they along with Gurmeet Kaur were entitled to the death-cum-retiral benefits of Randhir Singh, and while doing so dismissed the suit filed by Jaspreet Kaur. Jaspreet Kaur challenged the judgment of the trial Court by way of two appeals and one appeal was filed by the State of Punjab. Those appeals were dismissed. However, the appellate Court modified the judgment of the trial Court by dividing the assets of the deceased in a manner that Gurmeet Kaur was held entitled to the family pension while the parents were held entitled to rest of the benefits. Before

this Court, two appeals have been filed by Jaspreet Kaur while three appeals have been filed by Manjit Kaur and her husband.

Counsel for the appellant-Jaspreet Kaur has argued that both the Courts found that Jaspreet Kaur had got married to Randhir Singh but erred in holding that the previous marriage was proved.

Counsel for the appellants-Manjit Kaur and her husband has argued that the judgment of the trial Court equally justifying the death-cum-retiral benefits of Randhir Singh between Gurmeet Kaur on the one hand and parents on the other hand was correct and could not have been modified by the lower appellate Court by granting family pension to Gurmeet Kaur. As regards the appeal filed by Jaspreet Kaur, marriage of Gurmeet Kaur was sought to be proved by three facts, namely, 1) the panchayati divorce which Randhir Singh had signed and which recognized that Gurmeet Kaur and Randhir Singh had married; 2) two voter lists showing Gurmeet Kaur as wife of Randhir Singh; and 3) testimony of Manjit Kaur and her husband. Counsel for the appellant may be right to the extent that marriage between Gurmeet Kaur and Randhir Singh has not been proved by the primary sources like wedding card or marriage album or by the priest or the guests who may have attended the marriage. However, it has to be seen whether Jaspreet Kaur has been able to rebut the presumption which had arisen by the three pieces of evidence in favour of the previous marriage. In this connection, learned counsel has not been able to dispute that no evidence was at-all led by Jaspreet Kaur. In the circumstances, it cannot be held that the Courts below erred in coming to the conclusion that there was a previous marriage between Gurmeet Kaur and Randhir Singh. Consequently, the appeals filed by Jaspreet Kaur have to be dismissed.

Ordered accordingly.

As regards the appeals filed by Manjit Kaur and her husband, learned counsel for the respondent-Gurmeet Kaur has argued that actually once the Courts have accepted that Gurmeet Kaur was the surviving widow of Randhir Singh, even the parents could not have been given any share from the death-cum-retiral dues and it is only an act of grace by Gurmeet Kaur that she had not challenged that finding so that the old parents of her husband should get some thing from the retiral dues of their son. Counsel for Manjit Kaur and her husband is not in a position to show as to how some of the retiral benefits have been granted to them once it is held by the Courts below that Gurmeet Kaur was the widow of Randhir Singh. In these circumstances, these appeals are also dismissed.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

November 13, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No