

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO No. 35 of 2017 (O&M)
DECIDED ON: APRIL 25, 2017

SUSHMA RANI @ SEEMA & ANOTHER

.....APPELLANTS

VERSUS

DHANPATI DEVI & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Mandeep Kumar Dhot, Advocate
for the appellants.

JASPAL SINGH, J

CM No. 7061-CII of 2017

In view of averments made in the application the same is allowed and
delay of 7 days in filing the instant appeal is condoned.

SAO No. 35 of 2017 (O&M)

Instant appeal has been directed by the appellants against the
judgment dated March 22, 2010 passed by learned Additional Civil Judge (Sr.
Division), Jhajjar whereby, petition filed by respondents No.1 to 3 under Section

372 of Indian Succession Act, 1925 (for short 'Act') (As amended up to date) for the grant of Succession Certificate has been allowed, as well as against the judgment and decree dated September 23, 2016 passed by learned Additional District Judge, Jhajjar whereby, appeal preferred against the judgment dated March 22, 2010; has been dismissed.

While assailing the impugned orders, it has been argued with vehemence by learned counsel for the appellants that both the courts below have gravely erred in not properly appreciating the evidence available on file as well as legal proposition, which has resulted into miscarriage of justice. It is the specific case of the appellants that appellant No.1 is a legally wedded wife of the deceased Om Parkash whereas, appellant No.2 is his legitimate daughter, who has born out of the valid marriage of appellant No.1 with the deceased-Om Parkash. Thus, they are entitled to receive all securities and assets of the deceased Om Parkash. Both the courts below also failed to take into consideration that the deceased Om Parkash was an employee of Engineering Regiment in Indian Army and neither respondent No.1 is his wife nor respondents No.2 and 3 are his children. In fact, they are not related to him in any manner. Rather, it is amply proved on record that respondent No.1 was married with the elder brother of the deceased-Om Parkash and respondents No.2 and 3 were born out of their wedlock. Deceased-Om Parkash was married to appellant No.1 on May 20, 2002 as per Hindu Rites and Ceremonies and out of their wedlock appellants No.2 was born. Whereas respondent No.1 has failed to even disclose as to when and where her marriage was solemnized with the deceased Om parkash. She has also not examined any

witness or adduced any reliable evidence in this regard.

Both the courts below have also ignored and disbelieved the evidence of photographer Bansi Lal (RW-1) who prepared the video CD of the marriage of appellant No.1 with the deceased-Om Parkash on May 19, 2002. Thus, the impugned orders passed by both the courts below are not sustainable in the eyes of law and deserves to be set aside.

This Court has given an anxious thought to the various submissions made by learned counsel for the appellants and have minutely scanned the impugned orders and is of the view that arguments put forth by learned counsel for the appellants are without any legal or factual substance.

A glance at the impugned orders transpire that petitioners/respondents examined as many as five witnesses including Dhanpati and they have categorically deposed on oath that respondent No.1 is the legally wedded wife of the deceased Om Parkash. The oral testimony of the witnesses further finds corroboration from the various documents placed on record by respondents i.e. Ration Card (Ex.PA), Ex.PB Family detail certificate, Ex.PC Identity Card of widow of ex-serviceman; Ex.PD DMC of 10+2, Ex.PE DMC of BA, Ex.PF Medical certificate/death certificate, Ex.PG Certificate of amount of ₹5,00,000/-, Ex.PH Moment order, Ex.PI Benefit details of service and Ex.PJ to Ex.PL Photographs of Sushma.

However, these documents depict the name of Om Parkash as the husband of respondent No.1-Dhanpati and father of respondents No.2 and 3. To counter the afore-said oral as well as documentary evidence, appellants has

examined Sri Chand Photographer as RW-1 and Monu as RW-2 who had prepared the video cassette of the marriage of Sushma Rani @ Seema, deposed that they prepared the video cassette of Sushma Rani @ Seema on May 19, 2002 at village Maliana in the Meerut. Sushma Rani @ Seema Rani appeared in the witness box as RW-4 and has filed her affidavit Ex.RW-4/A reiterating the contents of written statement . There is an over whelming evidence adduced by the respondents who clearly depicts that respondents No.1 is legally wedded wife of the deceased-Om Parkash and respondents No.2 and 3 are the daughters born out of their wedlock. As per the written statement, Om Parkash got married with Sushma Rani @ Seema Rani on May 20, 2002 whereas, Rakesh RW-3 through his affidavit RW-3/A stated that Sushma Rani @ Seema Rani was got married to Om Parkash on May 19, 2002 and when RW-3 Rakesh was subjected to cross-examination has stated that he has no knowledge about the marriage of Sushma Rani @ Seema Rani with Om Parkash. He further stated that Sushma Rani @ Seema Rani never disclosed him about the death of her husband Om Parkash at any time. RW-4 Sushma in her cross-examination stated that she met Om Parkash only at the time of marriage and she never met him earlier. It has further been stated by her that they did not know each other prior to the marriage. This fact also do not admitted by her that she did not move any application regarding the fraud against Om Parkash before the authorities. Moreover, it can be said that the marriage of Dhanpati was solemnized with Om Parkkash much prior to the alleged marriage of Sushma Rani @ Seema Rani with Om Parkash. Moreover, concurrent findings have been recorded by both the courts below, after proper appreciation of evidence on file

and as such do not call for any interference by this Court.

In the light of what has been discussed above, this Court does not find any merit in the instant appeal. As such it stands dismissed.

No order as to costs.

JASPAL SINGH
JUDGE

APRIL 25, 2017

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
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<i>Whether reportable</i>	<i>Yes/No</i>
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