

The dispute is regarding retiral benefits of one Lal Chand who was employee of Municipal Council, Batala, and expired on 3.7.2012. According to case of plaintiffs, Lal Chand was married with Vidya Devi, out of which plaintiffs were born. Therefore, they are only legal heirs. It was further claimed that Lal Chand had not given divorce to his first wife Vidya Devi. Defendants No. 3 to 5 have no concern with service benefits of

RSA No. 1792 of 2018 (O/M)

Lal Chand. Defendant No. 5 is claiming to be legally wedded wife of Lal Chand. Therefore, she produced marriage certificate in this regard. The nomination once made in service book cannot be changed without any proof.

Defendants No. 3 to 5 in written statement had taken plea that Lal Chand was married to defendant No. 1 and defendant No. 3 was born out of wedlock. It was stated that a customary divorce had taken place between Lal Chand and Vidya Devi and thereafter, Lal Chand married with present appellant No. 1 Krishna alias Manne. From said wedlock, defendants No. 3 and 4 were born. It was further stated that Vidya Devi after getting customary divorce, married with one Mulakh Raj. After death of Mulakh Raj, defendant No. 1 being widow had applied for job on account of death of Mulakh Raj on compassionate ground and also furnished some documents. Lal Chand during his lifetime had disinherited plaintiffs from his estate and got advertisement published in newspaper regarding the same. Therefore, defendants No. 3 to 5 are entitled to service benefits and estate left by Lal Chand.

From pleadings, following issues were framed :-

1. Whether the plaintiffs are entitled for the relief of declaration alongwith consequential relief of permanent injunction as prayed for ? OPP
2. Whether defendant No. 5 is entitled for the benefits of deceased Lal Chand ? OPD
3. Relief.

Trial Court after recording evidence of parties came to conclusion that divorce between Lal Chand and Vidya Devi is not proved. Similarly, marriage of defendant No. 5 Krishna alias Manne with Lal Chand is also not proved and consequently suit of plaintiffs was decreed to effect that plaintiffs and defendants No. 2 to 4 are entitled to receive entire service

RSA No. 1792 of 2018 (O/M)

benefits i.e. ex gratia grant, leave encashment, general insurance scheme, provident fund, family pension and all other benefits in equal shares being natural heirs. Defendant No. 6 is restrained from making or releasing payment to defendants No. 2 to 4 more than their due share i.e. 1/5th share each.

In appeal, relief clause was slightly modified by learned Additional District Judge, Gudasapur, by holding that plaintiffs and defendants No. 1 to 4 will get 1/6th share each in retiral benefits except in family pension. Further, it was held that Vidya Devi alone will be entitled to family pension. It was further held that marriage between Lal Chand and Krishna alias Manne is not legal and valid, therefore, she is not entitled to get any benefit including family pension.

After going through judgments of both Courts below, I am of the view that alleged customary divorce between Lal Chand and Vidya Devi is not proved. Once there is first subsisting marriage, second marriage is void, though children from said marriage got status of class-I heirs. Two children from second marriage (defendants No. 3 and 4) have been granted benefit by both Courts below. Findings of facts have been recorded by both Courts below. There is no illegality or infirmity in impugned judgments. No law point arises. Consequently, second regular appeal is dismissed. Since main case has been dismissed, therefore, application pending, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

25.5.2018
sjks

Whether speaking / reasoned	:	Yes / No
Whether Reportable	:	Yes / No