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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**Date of Decision: 12<sup>th</sup> November, 2018**

+ TEST.CAS. 60/2009

NILANJAN GUPTA

..... Petitioner

Through: Mr. Sunil Mittal, Senior Advocate  
with Mr. Dhruv Grover and Ms.  
Aishwarya Anand, Advocates along  
with petitioner in person

versus

STATE AND ANOTHER

..... Respondents

Through: Mr. Sushant Singh, Ms. Shikha Singh  
and Ms. Kanika Hooda, Advocates for  
Respondent No.2 along with  
Respondent No.2 in person.  
Mr. Shadan Farasat, ASC, GNCTD  
with Ms. Hafsa Khan, Advocate for  
Respondent No. 1.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**J U D G M E N T (O R A L)**

1. The petitioner is seeking letters of administration in respect of the estate of his father, Ranjan Kumar Gupta (hereinafter referred to as 'Ranjan'), who died intestate on 27<sup>th</sup> April, 2009.
2. The petitioner claims to be the sole Class-I legal heir of his father. The petitioner pleaded that the marriage between his parents was dissolved by a decree of divorce dated 10<sup>th</sup> December, 1993. According to the petitioner, at the time of death, his father was living with Ms. Maureen Vere, (respondent

No.2) a citizen of Trinidad & Tobago, West Indies who claimed to be his father's wife. The petitioner pleaded that respondent No.2 merely lived as a companion with his father but no marriage was solemnized between them.

3. Respondent No.2 filed a detailed reply dated 12<sup>th</sup> April, 2010 to the petition in which she pleaded that she was legally wedded to Ranjan. Respondent no.2 claimed 50% share in the estate of Ranjan, who died intestate. The detailed defense of respondent No.2 in her reply dated 12<sup>th</sup> April, 2010 is as under:-

3.1 Respondent No.2 was married to Ranjan on 01<sup>st</sup> June, 1995 in accordance with Hindu rites and ceremonies at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi which was witnessed by Sheilla Gupta, mother of Ranjan (hereinafter referred to as 'Sheilla'). Prior to her marriage, respondent No.2 renounced and abandoned Christianity and converted to Hinduism and kept her name as 'Veera' on 01<sup>st</sup> June, 1995 itself in a ceremony performed at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi. The copies of the conversion and marriage certificates issued by Pandit Dawarika Prasad Tripathi of Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi are **Annexure R-2 & R-3** respectively.

3.2 Respondent No.2 was working as Acting High Commissioner for Republic of Trinidad & Tobago at the time of her marriage. Respondent No.2 and Ranjan resided in Delhi after their marriage from June, 1995 to February, 1999. On 15<sup>th</sup> February, 1999, respondent No.2 relinquished her post of Acting High Commissioner for Republic of Trinidad & Tobago and shifted to Ranchi and she resided there with her husband and her mother-in-law where she took care of her mother-in-law who was suffering from her

old age ailments.

3.3 On 30<sup>th</sup> November, 1999, Foreigners Regional Registration Office (FRRO), Ministry of Home Affairs, Delhi issued a PIO (Persons of Indian Origin) Card No. P-0045570 to respondent No.2 on account of her marriage to Ranjan. The said card shows that the world at large had accepted and had the knowledge about the legal sanctity of her marriage. The copy of PIO Card Bearing No. P-0045570 issued to respondent No.2 on 30<sup>th</sup> November, 1999 is ***Annexure R-4***.

3.4 After the issuance of PIO card, respondent No.2 purchased an apartment bearing Flat No.0101, Sky Court West, The Laburnum, Condominium Complex, Sushant Lok-I, Sector-28, Gurgaon, Haryana 122002 [hereinafter referred to as 'Laburnum flat'] vide agreement to sell dated 24<sup>th</sup> December, 1999 from Landbase India Limited from her own income derived from employment of 30 years as a Foreign Service Officer, Government of Trinidad and Tobago. The registered sale deed in respect of the aforesaid flat was executed in favour of respondent No.2 on 15<sup>th</sup> February, 2003. Respondent No.2 is the sole and exclusive owner of the aforesaid apartment. The copy of the registered sale deed dated 15<sup>th</sup> February, 2003 is ***Annexure-R-5 (colly)***.

3.5 On 13<sup>th</sup> May, 2003, Sheilla died at Ranchi and her last rites were performed by Ranjan and respondent No. 2 as her son and daughter-in-law.

3.6 Upon the demise of Sheilla; Ranjan, being the sole surviving legal heir of Sheilla, became the sole/absolute owner of the property known as 'The Grove', 5 Hazaribagh Road, Ranchi which was mutated in the records of Government of Jharkhand in the name of Ranjan. Ranjan continued to enjoy the ownership and possession of the property along with the

respondent No.2 without any claim or interference from any person whatsoever. After the demise of Sheilla, respondent No.2 and Ranjan stayed mainly at Ranchi.

3.7 On 27<sup>th</sup> April, 2009, Ranjan died intestate at Ranchi leaving behind the petitioner (son) and respondent No.2 (wife) as the only surviving legal heirs.

3.8 On 29<sup>th</sup> April, 2009, dead body of Ranjan was flown from Ranchi to New Delhi and the last rites were performed by the petitioner at Dayanand Ghat, Jangpura, New Delhi.

3.9 After the demise of Ranjan, respondent No.2 started staying at her Laburnum flat in Gurgaon. Ranjan, during his lifetime, never permitted the petitioner to enter or visit him at Laburnum flat because of petitioner's aggressive and unpredictable nature. Ranjan, however, extended financial assistance to the petitioner and performed all his duties as his father.

3.10 In June, 2009, the petitioner started threatening respondent No.2 to handover Laburnum Flat (which is the absolute property of respondent No.2) and further threatened to institute civil/criminal proceedings against respondent No.2.

3.11 On 08<sup>th</sup> June, 2009, the petitioner wrote a letter to the President of Amaltash Residents Welfare Association ['ARWA'] seeking access to the Laburnum flat on the ground that it belonged to his father, Ranjan and he was the sole legal heir. The petitioner also sought inspection of the property documents relating to Laburnum flat. Copy of the letter dated 08<sup>th</sup> June, 2009 issued by the petitioner to President of ARWA is ***Annexure R-9***.

3.12 On 10<sup>th</sup> June, 2009, President of Amaltash Residents Welfare Association ['ARWA'] informed the petitioner that respondent No.2 was the

owner of Laburnum flat as per their record and she was fully entitled to admit or deny entry to any person desiring to visit her. Copy of the letter dated 10<sup>th</sup> June, 2009 issued by the President, ARWA to the petitioner is ***Annexure R-10***.

3.13 The petitioner thereafter, started threatening the care-taker as well as the security guards deputed by respondent No.2 at the 'The Grove', 5 Hazaribagh Road, Ranchi with dire consequences, if respondent no.2 did not handover the possession of the said premises to the petitioner and went to the extent of putting his name plate on the entrance of the premises.

3.14 Respondent No.2 has taken all steps possible to settle the disputes and differences amicably and divide the property of the deceased proportionately but the petitioner is hell bound to create obstruction in the peaceful possession of the Laburnum flat by the Respondent no.2 which is her self-acquired property.

3.15 In July 2009, respondent No.2 was constrained to institute a partition suit bearing No. 269/2009 before the Ranchi District Court titled as ***Maureen Veer Gupta @ Veera Gupta v. Nilanjan Gupta*** seeking inter-alia a decree for partition in respect of 50% share in the immovable property, 'The Grove', 5 Hazaribagh Road, Ranchi and also the movable properties. The learned Sub-Judge-I, Ranchi District Court vide order dated 21<sup>st</sup> November, 2009 was pleased to issue notice in the said suit. Copy of the partition suit bearing No. 269/2009 is ***Annexure R-11***.

3.16 On 20<sup>th</sup> July, 2009, the petitioner lodged a criminal complaint against the respondent no.2 before the DCP-East, Gurgaon Police Station, Gurgaon, Haryana under Sections 341, 404, 406, 379 and 411 of the Indian Penal Code. Copy of complaint dated 20<sup>th</sup> July, 2009 lodged with DCP-East,

Gurgaon Police Station, Gurgaon, Haryana is ***Annexure R-12***.

3.17 On 19<sup>th</sup> September, 2009, respondent no.2 was summoned by the Police for recording of the statement/enquiry on the aforesaid complaint dated 20<sup>th</sup> July, 2009 where a written statement was filed by the respondent no.2 along with necessary documents to show her bonafide. Upon being satisfied, the Police filed a closure report in the matter. Copy of the statement dated 19<sup>th</sup> September, 2009 filed by respondent no.2 before the Station House Officer, P.S. Sector-29, Gurgaon is ***Annexure R-13***.

3.18 On 19<sup>th</sup> September, 2009, respondent No.2 lodged a complaint with SHO P.S. Sector-29, Gurgaon under Sections 441, 448, 450, 500, 503, 506 and 509 of Indian Penal Code against the petitioner. Copy of the complaint dated 19<sup>th</sup> September, 2009 is ***Annexure R-14***.

3.19 The present petition was filed when the suit for partition filed by respondent no.2 at Ranchi District Court was pending. The petitioner is guilty of concealment of the said proceedings in the present case.

4. The petitioner did not file the rejoinder to the reply of respondent No.2 dated 12<sup>th</sup> April, 2010.

5. The following issues were framed by this Court on 11<sup>th</sup> May, 2010:-

- “1. Does the objector prove that she was the legally wedded wife of deceased Mr. Ranjan Kumar Gupta? – OPR*
- 2. Is the petitioner entitled to letters of administration in respect of the estate of the said Mr. Ranjan Kumar Gupta? – OPP*
- 3. Relief”*

6. The petitioner appeared in the witness box as PW-1 and reiterated the averments made in the petition. However, the petitioner did not controvert

the defense raised by the respondent No.2. The petitioner was evasive in cross-examination and the learned Joint Registrar observed that the petitioner was not giving specific answers and his demeanour was noted.

7. Respondent No.2 appeared in the witness box as R2W1 and reiterated the averments made in her reply. Respondent No.2 deposed in her evidence by way of an affidavit that she first came to Delhi, in January, 1983 on a diplomatic assignment of Government of the Republic of Trinidad and Tobago; the Government of Trinidad and Tobago re-assigned her as Acting High Commissioner for Republic of Trinidad & Tobago in India in the end of the year 1992; in 1993-1994 Ranjan informed her that he had separated from wife due to irreconcilable temperamental differences and incompatibility and he was staying separately from her since 10<sup>th</sup> March, 1988; Ranjan later informed her that he had divorced his wife by way of mutual consent and divorce decree was passed on 10<sup>th</sup> December, 1993; on 01<sup>st</sup> June, 1995, respondent No.2 converted from Christianity to Hinduism by Pandit Dawarika Prasad Tripathi at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi and after her conversion to Hinduism, her name was changed to Veera; on the same day, she married with Ranjan in accordance with the Hindu rites and ceremonies at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi; late Sheilla (mother of Ranjan) was present and witnessed their marriage; on 13<sup>th</sup> June, 1995, she intimated the Ministry of Foreign Affairs (Trinidad and Tobago) of her marriage with Ranjan on 01<sup>st</sup> June, 1995 for the purposes of updating her records and for issuance of new diplomatic passport in her name as "*Maureen Vere Gupta*"; the passport bearing No.D000394 was issued to her on 04<sup>th</sup> July, 1995 in the name of "*Maureen Vere Gupta*" by the Ministry of National Security,

Immigration Department, Trinidad and Tobago; vide letter dated 30<sup>th</sup> January, 1996, respondent No.2 requested the Ministry of Foreign Affairs, Trinidad and Tobago to issue a diplomatic passport to her husband, Ranjan; as per policy of Government of Trinidad and Tobago, courtesy Diplomatic passports are issued to the foreign spouses of diplomatic officers of Trinidad and Tobago so as to enable them to avail equal diplomatic courtesies particularly when travelling together; on 02<sup>nd</sup> February, 1996, the Ministry of National Security, Immigration Department, Trinidad issued a Diplomatic passport bearing No.D000505 in the name of Ranjan with an endorsement that *“Holder is a national of India. He is the spouse of a Foreign Service Officer of the Government of Trinidad and Tobago”*; on 09<sup>th</sup> February, 1996, the Ministry of External Affairs, Regional Passport Office, New Delhi issued a passport bearing No.Z036160 in the name of late Ranjan which bears her name in the category of ‘wife’s name’ thereby acknowledging the factum of her being the legally wedded wife of late Ranjan; thereafter, the said passport was cancelled upon its expiry and a new passport bearing No.F6174273 was issued to late Ranjan on 30<sup>th</sup> January 2006 which also carries her name in the category of ‘name of spouse’ further acknowledging and re-affirming her status as wife of Ranjan; after her marriage, she started staying with her husband at House No.3 Padmini Enclave, Hauz Khas, New Delhi from June 1995 till mid of February, 1999; on 15<sup>th</sup> February, 1999, she relinquished her post as the Acting High Commissioner for the Republic of Trinidad and Tobago in order to reside permanently in India with her husband, a request was forwarded by respondent no.2 to the High Commission for the Republic of Trinidad and Tobago at New Delhi expressing her desire to relinquish the diplomatic visa and to apply for a

long term visa to be issued; vide letter dated 16<sup>th</sup> September, 1999, her request was forwarded to the Ministry of External Affairs by High Commission for Republic of Trinidad and Tobago at New Delhi for issuance of a No-Objection certificate in order to facilitate the issuance of long term visa to her; the Ministry of External Affairs acceded to the request made by her and issued a No-Objection certificate and a long term visa was issued to her; in 1999 after relinquishing her post as the Acting High Commissioner for the Republic of Trinidad and Tobago, she along with her husband shifted to Ranchi and started residing there with her mother-in-law, Sheilla at 'The Grove', 5 Hazaribagh Road, Ranchi and intermittently at Gurgaon; all her belongings were also shifted to Ranchi from Padmini Enclave, Hauz Khas, New Delhi; a letter dated 27<sup>th</sup> January, 1999 was issued by her to the Deputy Commissioner of Police (Traffic), Wellington Crescent, New Delhi seeking permission for container trucks for shifting of her personal and household effects and motor cars; a certificate dated 10<sup>th</sup> February, 1999 was issued to her in order to enable the transport of goods without any hindrance and being a diplomatic consignment to exempt the same from payment of duty, Octroi and other border taxes; she took the services of Chinese Art Palace, International Movers, A-14, Connaught Place, New Delhi-110001 to transport her belongings from house no. 3 Padmini Enclave to 'The Grove', 5 Hazaribagh Road, Ranchi; on 30<sup>th</sup> November, 1999, she was issued a Persons of Indian Origin ('PIO') Card bearing No.P-0045570 by the Ministry of Home Affairs, Foreigners Regional Registration Office, Head Quarters, New Delhi ('FRRO') pursuant to her marriage with late Ranjan, who was an Indian citizen; PIO card of respondent no.2 was valid till 29<sup>th</sup> November, 2019; and pursuant to the order of Ministry of Home

Affairs bearing No.25011/114/02 FII dated 10<sup>th</sup> September, 2002, the validity period of the card was extended till 29<sup>th</sup> November, 2029 by the FRRO; Conversion certificate of respondent No.2 from Christianity to Hinduism issued by Pandit Dawarika Prasad Tripathi of Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi is Mark-F ; Marriage Certificate of late Ranjan Kumar Gupta with respondent No.2 issued by Pandit Dawarika Prasad Tripathi of Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi is Mark-G; Passport bearing No.F6174273 issued to Ranjan by Ministry of External Affairs, Regional Passport Office, New Delhi is Mark-A and Persons of Indian Origin (PIO) Card No. P-0045570 issued to respondent No.2 by the Ministry of Home Affairs, Foreigners Regional Registration Office (FRRO), New Delhi is Mark-E.

8. Respondent No.2 was cross-examined at length by learned senior counsel for the petitioner on five dates. However, the respondent No.2 withstood the test of cross-examination and remained unshaken.

9. Respondent No.2 examined Pandit Dawarika Prasad Tripathi as R2W4 who deposed that Ranjan approached him in May, 1995 for conversion of respondent No.2 and for his marriage with respondent no.2; on 01<sup>st</sup> June, 1995, Ranjan along with respondent No.2 and few others including Sheilla came to Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi for conversion ceremony of respondent No.2 and marriage ceremony of Ranjan with respondent No.2. R2W4 deposed that he performed the conversion ceremony to convert respondent No.2 to Hinduism and he kept her Hindu name as 'Veera' and thereafter, he performed the marriage ceremony between Ranjan and respondent No.2 according to

Hindu rites and ceremonies in the presence of Sheilla and few others including the photographer who clicked numerous photographs of the ceremonies. He further deposed that he issued the conversion certificate as well as marriage certificate certifying the marriage in the presence of the witnesses. R2W4 was cross examined at length but the witness withstood the test of cross-examination.

10. Respondent No.2 examined the Senior Passport Assistant from the Passport Office as R2W2 who proved the Passport Application Form of Ranjan and the documents submitted along with application including a covering letter and 17 pages for issuance of passport as Ex.R2W2/1 in which, the late Ranjan disclosed the name of respondent No.2 as his spouse. Late Ranjan filled up the name of his spouse as Maureen Vere Gupta in paragraph 8 of the application form which is reproduced hereunder:

*“If married, Full Name of Spouse : MAUREEN VERE GUPTA  
(including surname, if any).  
(Initials not allowed)”*

11. Respondent No. 2 examined the Inspector from Foreigners Regional Registration Office (FRRO) as R2W3 who proved the attested copy of the PIO application along with Annexures as Ex.R2W3/1 (8 pages) in which respondent No.2 disclosed the name of her spouse as Ranjan Kumar Gupta. Respondent No.2 mentioned the name of Ranjan Kumar Gupta as her spouse in paragraphs 2 and 14 of the application for renewal of the PIO card which are reproduced hereunder:

*“2. Father’s/Mother’s/Spouses name & nationality:-  
(a) Father: OSCAR LA CHAPELLE – TRINIDAD & TOBAGO  
(b) Mother: ENID LA CHAPELLE - TRINIDAD & TOBAGO*

(c) Spouse (where applicable): RANJAN K. GUPTA – INDIA

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xxx

xxx

14. Whether the applicant or either of his/her parents or any of his/her grand parents or great grand parents was born and was permanently resident in India as defined in the Government of India Act, 1935 at any time. If so, following details may be indicated:

(i) Date & Place of birth:

(ii) Proof of residence etc:

(Enclose photocopy of relevant documents)

(Note: If applicant is a spouse of citizen of India or a person of Indian origin, his/her particulars should be indicated).

SPOUSE - RANJAN K. GUPTA

September 23, 1942 INDIA (NEW DELHI)

Photocopy of Passport attached: Z-036160”

12. The copy of the PIO card of respondent No.2 valid from 30<sup>th</sup> November, 1999 to 29<sup>th</sup> November, 2019 is part of Ex.R2W3/1 which contains the name of Ranjan Kumar Gupta as her spouse. Relevant portion of the PIO card is reproduced hereunder:

“Father’s/Spouse’s name : Ranjan. K. Gupta”

13. The copy of passport of respondent No.2 is also part of Ex.R2W3/1 which mentions the name of respondent No.2 as ‘Gupta Maureen Vere’ and mentions the name of her spouse as ‘Ranjan Kumar Gupta’.

14. The certificate of marriage between Ranjan and respondent No.2 is also part of Ex.R2W3/1 and is reproduced hereunder:-

“Dated 1.6.1995.

TO WHOM IT MAY CONCERN

MARRIAGE CERTIFICATE

This is to certify that Sri Ranjan Kumar Gupta, son of Late Shri Sisir Kumar Gupta, r/o “The Grover” 5 Hazaribagh Road, Ranchi Bihar, at present at 3, Padmini Enclave, Hauz Khas, New Delhi with Maureen Vere Mustafa @ Veera, d/o Late Shri Oscar Ramon La Chapelle, r/o 17, Coblenz Avenue, Cascade Fort of Spain Trinidad And Tobago, West Indies was solemnized in this Temple Sri Durga

*Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi-110026 on Ist day of June, 1995 according to the hindu Rites and customs. The said Marriage was conducted by Pt. Dawarika Prasad Tripathi.*

*Sign. of Bride -Signed-*

*-Signed-*

*PT. DAWARIKA PRASAD TRPATHI*  
Railway Colony, Punjabi Bhag,  
NBW Delhi -110026

*Sign. of Bridegroom -Signed-*

*Witnesses:-*

*-Signed-*

*1. Mukesh, s/o Shri Sita Ram,  
r/o Vill. Passonda, Ghaziabad, U.P.*

*-Signed-*

*2. Promila Safaya, Advocate  
r/o 1/24, Haus Khas, New Delhi*

*-Signed-*

*3. Mrs. Gupta, w/o Sh. Sisir Kumar Gupta Late  
r/o Padmini Enclave, Hauz Khas, New Delhi”*

15. The petitioner did not lead any evidence to rebut the evidence of respondent No.2.

16. Learned senior counsel for the petitioner urged at the time of the hearing that the petitioner's father resided with respondent No.2 since 1991 till his death but she was never married to the petitioner's father. It is submitted that respondent No.2 has raised a false claim of the marriage before this Court in order to take away 50% estate of the petitioner's father. It is submitted that the marriage certificate and the conversion certificate filed by respondent No.2 are forged and fabricated. It is submitted that mere living together does not create a right in favour of respondent No.2 under the Hindu Succession Act. The petitioner present in Court submits that the photographs produced today by respondent No.2 are forged and fabricated.

17. Learned counsel for respondent No.2 urged at the time of hearing that

respondent No.2 legally married Ranjan on 01<sup>st</sup> June, 1995 after conversion from Christianity to Hinduism. The marriage has been duly proved by R2W4 who performed the conversion ceremony as well as the marriage ceremony. The photographs of the marriage are marked as Ex.A-1 to Ex.A-10 and the negatives of the photographs are Ex.A-11. The marriage ceremony was attended by the mother of Ranjan who is seen in the photograph, Ex.A-6. It is further submitted that respondent No.2 was working as the Acting High Commissioner for Republic of Trinidad & Tobago in India at the time of the marriage and she held that post till 1999. Ranjan applied for a diplomatic passport after the marriage in which he mentioned the name of respondent No.2 as his spouse. The respondent No.2 was issued the diplomatic passport in which the name of respondent No.2 has been shown as spouse of Ranjan. Respondent No.2 applied for PIO (Persons of Origin) Card which was issued to her in which the name of Ranjan has been shown as her husband. Ranjan and respondent No.2 lived as husband and wife continuously from date of marriage i.e. 01<sup>st</sup> June, 1995 till the death of Ranjan i.e. till 27<sup>th</sup> April, 2009. The whole world was aware of the marriage between Ranjan and respondent No.2 who lived together for about 14 years. The petitioner was well aware of the marriage between the Ranjan and respondent No.2 and has raised false claims before this Court. The petitioner has also raised a false claims with respect to three properties namely property bearing Flat No.0101, Sky Court West, the Laburnum, Condominium Complex, Sushant Lok-I, Sector-28, Gurgaon, Haryana 122002; Mercedes car bearing registration No. DL-1-CG 0308 and the 1983 model Toyota Cressida Car which are exclusive properties of respondent No.2. The petitioner is also guilty of concealment of the partition

proceedings pending on the date of the filing of the suit. It is submitted that the petitioner be prosecuted under Section 209 for raising false claims before this Court.

18. During the course of hearing dated 12<sup>th</sup> November, 2018, this Court examined the petitioner and respondent No.2 on oath in exercise of power under Section 165 of the Indian Evidence Act. Respondent No.2 deposed that she was legally wedded to Late Ranjan Kumar Gupta on 01<sup>st</sup> June, 1995 at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi after conversion from Christianity to Hinduism and her name was changed from Maureen Vere Mustafa to Maureen Vere Gupta. Pandit Dawarika Prasad Tripathi performed the conversion as well as the aforesaid marriage. Respondent No.2 deposed that ten photographs of her marriage have been filed along with an application and she produced the negatives of the same. The ten photographs and their negatives are Ex.A-1 to A-11. Respondent No.2 identified herself, her husband Ranjan, Pandit Dawarika Tripathi and her mother-in-law, Sheilla in the photographs Ex.A-1 to A-10. The petitioner also identified his father, grandmother and respondent No.2 in photographs Ex.A-1 to A-10 but falsely stated that the photographs were not clear.

### **Findings**

19. Respondent No.2 has successfully proved beyond reasonable doubt that she was legally wedded to Ranjan on 01<sup>st</sup> June, 1995 according to Hindu rites and ceremonies after conversion from Christianity to Hinduism and the parties lived together as husband and wife from the date of the marriage till the date of death of Ranjan i.e. 27<sup>th</sup> April, 2009. The reasons for this finding are as under:

19.1 Respondent No.2 appeared in the witness box as R2W-1 and

deposed that she converted from Christianity to Hinduism on 01<sup>st</sup> June, 1995 and thereafter, married to Late Ranjan on 01<sup>st</sup> June, 1995 and both the ceremonies were performed by Pandit Dawarika Prasad Tripathi at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi in the presence of the mother of late Ranjan.

19.2 Pandit Dawarika Prasad Tripathi appeared in the witness box as R2W-4 and deposed as he performed the conversion ceremony of respondent No.2 from Christianity to Hinduism and thereafter, the marriage ceremony between late Ranjan and respondent No.2 on 01<sup>st</sup> June, 1995 at Sri Durga Mata Mandir, Railway Colony, Punjabi Bagh, New Delhi in the presence of mother of late Ranjan.

19.3 The photographs of the marriage are Ex.A-1 to A-10 show, respondent No.2, late Ranjan, Pandit Dawarika Prasad Tripathi as well as Sheilla Gupta (mother of late Ranjan) at the time of marriage.

19.4 Pandit Dawarika Prasad Tripathi issued the marriage certificate dated 01<sup>st</sup> June, 1995 which is signed by late Ranjan, respondent No.2 and the witnesses including mother of late Ranjan. The marriage certificate is part of Ex.R2W-3/1 (Colly.).

19.5 Respondent No.2 intimated the Ministry of Foreign Affairs, Trinidad and Tobago of her marriage with Ranjan on 01<sup>st</sup> June, 1995 for issuance of new diplomatic passport in her name as “*Maureen Vere Gupta*” in pursuance to which the passport bearing No.D000394 was issued to respondent No.2 on 04<sup>th</sup> July, 1995 in the name of “*Maureen Vere Gupta*” by the Ministry of National Security, Immigration Department, Trinidad and Tobago.

19.6 Vide letter dated 30<sup>th</sup> January, 1996, respondent No.2 requested

the Ministry of Foreign Affairs, Trinidad and Tobago to issue a diplomatic passport to her husband, Ranjan in pursuance to which the Ministry of National Security, Immigration Department, Trinidad issued a Diplomatic passport bearing No.D000505 in the name of Ranjan with an endorsement that *“Holder is a national of India. He is the spouse of a Foreign Service Officer of the Government of Trinidad and Tobago”* on 02<sup>nd</sup> February, 1996.

19.7 On 09<sup>th</sup> February, 1996, the Ministry of External Affairs, Regional Passport Office, New Delhi issued a passport bearing No.Z036160 in the name of late Ranjan which bears name of respondent No.2 in the category of his wife.

19.8 Respondent No.2 relinquished her post as the Acting High Commissioner for the Republic of Trinidad and Tobago in order to reside permanently in India with her husband.

19.9 On 30<sup>th</sup> November, 1999, respondent No.2 was issued a Persons of Indian Origin (‘PIO’) Card bearing No.P-0045570 by the Ministry of Home Affairs, Foreigners Regional Registration Office, Head Quarters, New Delhi (‘FRRO’) pursuant to her marriage with late Ranjan.

19.10 R2W2 from the passport office proved the passport application form (Ex.R2W2/1) of Ranjan in which late Ranjan had disclosed the name of respondent No.2 as his spouse.

19.11 R2W3 from the Foreigners Regional Registration Office (FRRO) proved the PIO application of respondent No.2 in which respondent No.2 disclosed the name of her spouse as Ranjan Kumar Gupta (Ex.R2W3/1)

19.12 PIO card of respondent No.2 valid from 30<sup>th</sup> November, 1999

to 29<sup>th</sup> November, 2019 is part of Ex.R2W3/1 which contains the name of Ranjan Kumar Gupta as her spouse.

19.13 Passport of respondent No.2 is also part of Ex.R2W3/1 which mentions the name of respondent No.2 as '*Gupta Maureen Vere*' and mentions the name of her spouse as '*Ranjan Kumar Gupta*'.

19.14 Late Ranjan and respondent No.2 stayed together continuously from the date of the marriage i.e. 01<sup>st</sup> June, 1995 till death of late Ranjan i.e. 27<sup>th</sup> April, 2009.

20. The entire evidence lead by respondent No.2 including the testimony of R2W2, R2W3 and R2W4 and the documentary evidence namely Ex.R2W2/1, Ex.R2W3/1 and Ex.A-1 to A-11 are accepted as true and correct. The petitioner did not lead any evidence to rebut the evidence of respondent No.2. The contrary evidence of the petitioner is based on falsehood and is hereby rejected. Issue No.1 is decided in favour of respondent No.2.

21. Ranjan died intestate on 27<sup>th</sup> April, 2009 and his estate has devolved upon petitioner and respondent No.2 in equal shares. The petitioner and respondent No.2 are each entitled to the letters of administration in respect of 50% of the estate of the deceased. The three properties namely Flat No.0101, Sky Court West, The Laburnum, Condominium Complex, Sushant Lok-I, Sector-28, Gurgaon, Haryana 122002; Mercedes car bearing registration No. DL-1-CG-0308 and Toyota Cressida Car are exclusive properties of respondent No.2 and do not form part of the estate of late Ranjan. Issue No.2 is decided accordingly.

**Petitioner has raised false claims**

22. The petitioner has raised false claims before this Court that respondent

No.2 was not legally married to his father, Ranjan. The petitioner's contention that he believed that no marriage had taken place between his father and respondent No.2, is false and is hereby rejected. Even after the entire evidence has been produced by respondent No.2 before this Court, the petitioner has raised the false claim before this Court denying the marriage between his father and respondent No.2.

23. This Court is of the view that the petitioner was/is well aware of the marriage of his father, Ranjan with respondent No.2 and the petitioner has resorted to false claim with the dishonest and fraudulent intention of taking away 50% share of respondent No.2 in the estate of late Ranjan. The petitioner has no respect for truth and has made false statements on oath. This case warrants prosecution as well as imposition of penal costs on the petitioner.

24. The petitioner has also raised false claims with respect to property bearing Flat No.0101, Sky Court West, The Laburnum, Condominium Complex, Sushant Lok-I, Sector-28, Gurgaon, Haryana 122002; Mercedes car bearing registration No. DL-1-CG-0308 and Toyota Cressida Car which was owned by respondent No.2. The petitioner falsely claimed the aforesaid properties to be part of the estate of the deceased and obtained an *ex-parte* order from this Court on 04<sup>th</sup> December, 2009. Respondent No.2 filed I.A. 5596/2010 under Order XXXIX Rule 4 of the Code of Civil Procedure which was allowed on 11<sup>th</sup> May, 2010 and injunction in respect of property bearing Flat No.0101, Sky Court West, The Laburnum, Condominium Complex, Sushant Lok-I, Sector-28, Gurgaon, Haryana 122002; Mercedes car bearing registration No. DL-1-CG-0308 and Toyota Cressida Car, was vacated. The petitioner was well aware of the title of Gurgaon property as he

had made a complaint to the Amaltash Residents Welfare Association [‘ARWA’] society which in reply had clearly intimated the petitioner that the property was owned by respondent No.2. The petitioner is also guilty of concealment of the partition suit instituted by respondent No.2 which was pending at the time of institution of this suit.

25. The greatest challenge before the judiciary today is the frivolous litigation. The judicial system in the country is choked with false claims and such litigants are consuming Courts’ time for a wrong cause. False claims are a huge strain on the judicial system. In *Subrata Roy Sahara v. Union of India*, (2014) 8 SCC 470, the Supreme Court observed that the Indian judicial system is grossly afflicted with frivolous litigation and ways and means need to be evolved to deter litigants from their compulsive obsession towards senseless and ill-considered claims. Relevant portion of the said judgment is as under:

**“191. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims.**

*(Emphasis supplied)*

26. False claims and defences are really serious problems. It is a matter of common experience that Court's otherwise scarce time is consumed or more appropriately, wasted in a large number of uncalled for cases. It is the duty of the Courts to see that such wrong doers are discouraged at every step and even if they succeed in prolonging the litigation, ultimately they must suffer the costs of all these years long litigation. Imposition of actual, realistic or proper costs and/or ordering prosecution in appropriate cases would go a long way in controlling the tendency of filing false cases.

27. The Supreme Court and this Court have time and again held that heavy costs should be imposed in frivolous cases and in appropriate cases, prosecution be ordered to maintain purity and sanctity of judicial proceedings.

28. In **Ramrameshwari Devi v. Nirmala Devi**, (2011) 8 SCC 249, the Supreme Court has held that the Courts have to take into consideration the pragmatic realities and have to be realistic in imposing the costs. Relevant portion of the said judgment is reproduced hereunder:

*“43. ....We are clearly of the view that unless we ensure that wrongdoers are denied profit or undue benefit from the frivolous litigation, it would be difficult to control frivolous and uncalled for litigations. In order to curb uncalled for and frivolous litigation, the courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that court's otherwise scarce and valuable time is consumed or more appropriately wasted in a large number of uncalled for cases.*

xxx

xxx

xxx

*52. The main question which arises for our consideration is whether the prevailing delay in civil litigation can be curbed? In our considered opinion the existing system can be drastically changed or improved if the following steps are taken by the trial courts while dealing with the civil trials.*

xxx

xxx

xxx

*C. Imposition of actual, realistic or proper costs and or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.*

54. While imposing costs we have to take into consideration pragmatic realities and be realistic what the Defendants or the Respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopying, court fee etc.

55. The other factor which should not be forgotten while imposing costs is for how long the Defendants or Respondents were compelled to contest and defend the litigation in various courts. The Appellants in the instant case have harassed the Respondents to the hilt for four decades in a totally frivolous and dishonest litigation in various courts. The Appellants have also wasted judicial time of the various courts for the last 40 years.

56. On consideration of totality of the facts and circumstances of this case, we do not find any infirmity in the well reasoned impugned order/judgment. These appeals are consequently dismissed with costs, which we quantify as Rs. 2,00,000/- (Rupees Two Lakhs only). We are imposing the costs not out of anguish but by following the fundamental principle that wrongdoers should not get benefit out of frivolous litigation.”

(Emphasis supplied)

29. In *Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria*, 2012 (3) SCALE 550, the Supreme Court held that false claims and defences are serious problems with real estate litigation, predominantly because of ever escalating prices of the real estate. The Supreme Court held as under:-

**“False claims and false defences**

84. False claims and defences are really serious problems with real estate litigation, predominantly because of ever escalating prices of the real estate. Litigation pertaining to valuable real estate properties is dragged on by unscrupulous litigants in the

*hope that the other party will tire out and ultimately would settle with them by paying a huge amount. This happens because of the enormous delay in adjudication of cases in our Courts. If pragmatic approach is adopted, then this problem can be minimized to a large extent.”*

30. In ***Maria Margarida Sequeria Fernandes*** (supra), the Supreme Court further held that heavy costs and prosecution should be ordered in cases of false claims and defences. The relevant portion of the judgement is reproduced hereunder:-

*“85. This Court in a recent judgment in Ramrameshwari Devi and Ors. (supra) aptly observed at page 266 that unless wrongdoers are denied profit from frivolous litigation, it would be difficult to prevent it. In order to curb uncalled for and frivolous litigation, the Courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that Court's otherwise scarce time is consumed or more appropriately, wasted in a large number of uncalled for cases. In this very judgment, the Court provided that this problem can be solved or at least be minimized if exemplary cost is imposed for instituting frivolous litigation. The Court observed at pages 267-268 that imposition of actual, realistic or proper costs and/or ordering prosecution in appropriate cases would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases, the Courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.”*

*(Emphasis supplied)*

31. In ***Subrata Roy Sahara v. Union of India*** (supra), the Supreme Court stressed the need for imposition of costs in frivolous litigations. Relevant portion of the said judgment is reproduced hereunder:

*“191..... One needs to keep in mind that in the*

*process of litigation, there is an innocent sufferer on the other side of every irresponsible and senseless claim. He suffers long-drawn anxious periods of nervousness and restlessness, whilst the litigation is pending without any fault on his part. He pays for the litigation from out of his savings (or out of his borrowings) worrying that the other side may trick him into defeat for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for what he has lost for no fault?*

*(Emphasis Supplied)*

32. Raising a false claim before the Court is an offence under Section 209 of the Indian Penal Code punishable with punishment of imprisonment upto two years and fine. Section 209 of the Indian Penal Code is reproduced hereunder:

**“Section 209 - Dishonestly making false claim in Court —**

*Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.”*

33. In ***H.S. Bedi v. National Highway Authority of India***, 2016 (155) DRJ 259, this Court discussed the scope of the Section 209 of the Indian Penal Code. Relevant portion of the said judgment is reproduced hereunder:-

*“15.1 Section 209 of the Indian Penal Code makes dishonestly making a false claim in a Court as an offence punishable with imprisonment upto two years and fine.*

*15.2 The essential ingredients of an offence under Section 209 are: (i)The accused made a claim; (ii)The claim was made in a Court of Justice; (iii) The claim was false, either wholly or in part; (iv)That the accused knew that the claim was false; and (v)The claim was made fraudulently, dishonestly, or with intent*

*to injure or to annoy any person.*

*15.3 A litigant makes a 'claim' before a Court of Justice for the purpose of Section 209 when he seeks certain relief or remedies from the Court and a 'claim' for relief necessarily impasses the ground for obtaining that relief. The offence is complete the moment a false claim is filed in Court.*

*15.4 The word "claim" in Section 209 of the IPC cannot be read as being confined to the prayer clause. It means the "claim" to the existence or non-existence of a fact or a set of facts on which a party to a case seeks an outcome from the Court based on the substantive law and its application to facts as established. To clarify, the word "claim" would mean both not only a claim in the affirmative to the existence of fact(s) as, to illustrate, may be made in a plaint, writ petition, or an application; but equally also by denying an averred fact while responding (to the plaint/petition, etc.) in a written statement, counter affidavit, a reply, etc. Doing so is making a "claim" to the non-existence of the averred fact. A false "denial", except when the person responding is not aware, would constitute making a "claim" in Court under Section 209 IPC.*

*15.5 The word 'claim' for the purposes of Section 209 of the Penal Code would also include the defence adopted by a defendant in the suit. The reason for criminalising false claims and defences is that the plaintiff as well as the defendant can abuse the process of law by deliberate falsehoods, thereby perverting the course of justice and undermining the authority of the law.*

*15.6 Whether the litigant's 'claim' is false, is not considered merely from whatever he pleads (or omits to plead): that would be to elevate form over substance. To make out the offence, the Court does not merely inspect how a litigant's pleadings have been drafted or the case has been presented. The real issue to be considered is whether, all said and done, the litigant's action has a proper foundation which entitles him to seek judicial relief.*

*15.7 Section 209 was enacted to preserve the sanctity of the Court of Justice and to safeguard the due administration of law by deterring the deliberate making of false claims. Section 209*

was intended to deter the abuse of Court process by all litigants who make false claims fraudulently, dishonestly, or with intent to injure or annoy.

15.8 False claims delay justice and compromise the sanctity of a Court of justice as an incorruptible administrator of truth and a bastion of rectitude.

15.9 Filing of false claims in Courts aims at striking a blow at the rule of law and no Court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false claims.

15.10 The Courts of law are meant for imparting justice between the parties. One who comes to the Court, must come with clean hands. More often than not, process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the Court-process a convenient lever to retain the illegal gains indefinitely. A person, who's case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.

15.11 The disastrous result of leniency or indulgence in invoking Section 209 is that it sends out wrong signals. It creates almost a licence for litigants and their lawyers to indulge in such serious malpractices because of the confidence that no action will result.

15.12 Unless lawlessness which is all pervasive in the society is not put an end with an iron hand, the very existence of a civilized society is at peril if the people of this nature are not shown their place. Further if the litigants making false claims are allowed to go scot free, every law breaker would violate the law with immunity. Hence, deterrent action is required to uphold the majesty of law. The Court would be failing in its duties, if false claims are not dealt with in a manner proper and effective for maintenance of majesty of Courts as otherwise the Courts would lose its efficacy to the litigant public.”

(Emphasis supplied)

### **Conclusion**

34. Late Ranjan Kumar Gupta married respondent No.2 on 01<sup>st</sup> June, 1995 in accordance with Hindu rites and ceremonies and they lived together from 01<sup>st</sup> June, 1995 till death of Ranjan Kumar Gupta i.e. 27<sup>th</sup> April, 2009.

35. Late Ranjan Kumar Gupta died intestate on 27<sup>th</sup> April, 2009 leaving behind the petitioner No.1 (son) and respondent No.2 (wife) as Class-I legal heirs who are entitled to 50% share each in the estate of the deceased.

36. The letters of administration in respect of the 50% estate of Ranjan Kumar Gupta are granted to the petitioner and the letters of administration in respect of balance 50% estate of Ranjan Kumar Gupta are granted to respondent No.2.

37. The petitioner has raised false claims by denying the lawful marriage of late Ranjan Kumar Gupta and respondent No.2 as well as by claiming three exclusive properties of respondent No.2 as estate of his father. The Registrar General is directed to file a complaint under Section 340 of the Code of Civil Procedure against the petitioner for raising false claims before this Court under Section 209 of the Indian Penal Code.

38. This case warrants imposition of heavy cost on the petitioner for instituting this frivolous litigation and, therefore, cost of Rs.2,00,000/- is imposed on the petitioner. The cost be deposited by the petitioner with the Registrar General of this Court within two weeks. Upon deposit of cost by the petitioner, the Registrar General shall release the same to respondent No.2.

39. The parties shall complete the necessary formalities including the deposit of the Court fees and the requisite bonds before issuance of the letters of administration.

40. The petition is disposed of in above terms.
41. List for reporting compliance on 12<sup>th</sup> December, 2018.
42. *Dasti*

**NOVEMBER 12, 2018**  
ds

**J.R. MIDHA**  
**(JUDGE)**

