

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

107

Regular Second Appeal No.4569 of 2016 (O&M)
Date of Decision: May 6th, 2019

Anita

...Appellant

Versus

Municipal Corporation, Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. C.S. Singh, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.11857-C of 2016

Prayer in this application is for condonation of delay of 63 days in filing the appeal.

For the reasons mentioned in the application which is duly supported by the affidavit of applicant-appellant, the same is allowed.

Delay of 63 days in filing the appeal stands condoned.

RSA No.4569 of 2016

Challenge in this appeal is to the judgment and decree dated 06.08.2014 passed by the Civil Judge (Junior Division), Chandigarh, whereby suit for declaration preferred by the appellant-plaintiff to the effect that she is the sole surviving legal heir of late Sultan Singh being his sister was entitled to the benefits of his property including General Provident Fund, GIS, Ex-gratia payment, DCRG, leave encashment etc. as deceased Sultan Singh was working as a Sweeper with Municipal Corporation, Chandigarh, has been dismissed, appeal against which preferred by the appellant has also been dismissed by the Additional District Judge, Chandigarh, on 17.02.2016.

appellant was sister of deceased Sultan Singh. Apart from Sultan Singh, another brother Rajpal was born out of the wedlock between late Shri Shyam Lal and Phoolo Devi. All the other legal heirs have expired except for the appellant and Sultan Singh being unmarried did not have any separate legal heir except for the appellant. It is contended that in the light of the relationship of the appellant with deceased Sultan Singh and she being the sole surviving legal heir as per the Hindi Succession Act, she would be entitled to the benefit as claimed in the suit. The Courts below have failed to appreciate the said fact and proceeded to reject the suit of the appellant without taking into consideration the evidence which has been produced on record. Counsel thus contends that the impugned judgments deserve to be set aside and the suit of the appellant-plaintiff decreed.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the judgments as passed by the Courts below which have been impugned.

4. Appellant has appeared as the sole witness and has deposed as has been asserted by the counsel for the appellant. She has only been able to place on record some documents such as Identity Card (Exhibit P-1) of deceased Sultan Singh, death certificate of Sultan Singh and that of Phoolo Devi mother of Sultan Singh (Exhibit P-2 and P-3), letter dated 18.02.2010 (Exhibit P-4) of the Municipal Corporation, legal notice dated 10.09.2012 (Exhibit P-5), postal receipts (Exhibits P-6 and P-7) and letter of Bank Manager, OBC (Exhibit P-8), where she is shown to be the nominee. Apart from these documents and her bald oral assertion, nothing has been placed on record which would establish the relationship of the appellant-plaintiff with that of deceased Sultan Singh. None from the

officials of Municipal Corporation or any other department such as Food and Supplies Department, even the Registrar, Births and Deaths, have been summoned to establish the relationship of the appellant with that of Sultan Singh. The documents which have been placed on record do not in any manner indicate or point towards any relationship of the appellant-plaintiff with that of the Sultan Singh, what to say of establishing. A bald statement would not be sufficient to establish her relationship with deceased Sultan Singh.

5. In view of the above, this Court does not find any evidence to even indicate that the appellant was in any way related to deceased Sultan Singh. In the absence of any evidence on record, the Courts below have rightly proceeded to dismiss the suit filed by the appellant-plaintiff.

6. There being concurrent findings recorded by the Courts below on the basis of proper appreciation of the pleadings and the evidence on record and there being no question of law involved in the present appeal, this appeal deserves dismissal.

7. In view the above, the present appeal stands dismissed.

May 6th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No