

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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**CM-19373-C-2018 &
CM-19374-C-2018 &
CM-5036-C-2019 &
CM-5037-C-2019 &
CM-10936-C-2019 &
RSA-14982-2018**

Date of decision:04.10.2019

STATE OF PUNJAB AND *OTHERS*

...APPELLANTS

VS.

BALJEET KAUR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Charanpreet Singh, AAG, Punjab,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-5036-C-2019 & CM-19373-C-2018

C.M. No. 19373-C of 2018 has been filed by the State of Punjab for condonation of delay of 278 days in filing the appeal.

In C.M. No. 5036-C-2019, the applicant-appellants had filed an additional affidavit explaining the delay in filing the appeal.

Having considered the submissions made by the counsel for the State, this Court is satisfied that the delay in filing the appeal is neither intentional nor deliberate but because of the details and reasons as assigned and mentioned in the application/affidavit.

In view of the above, these applications are allowed. Delay of 278 days in filing the appeal stands condoned.

CM-5037-C-2019

C.M. is allowed subject to just exceptions. Copy of Ex.D-3, Ex. PZ, copy of dependent certificate of Late Sh. Kulwinder Singh son of Gurmej Singh, Technician Grade-IV and remarriage certificate of respondent Baljeet Kaur are taken on record.

CM-10936-C-2019

Counsel for the applicant-appellants prays for withdrawal of the present application.

Dismissed as withdrawn, as prayed for.

RSA-14982-2018

Challenge in this appeal is to the judgment and decree passed by the Additional District Judge, Gurdaspur dated 15.12.2017 whereby the appeal preferred by Baljeet Kaur widow of Kulwinder Singh challenging the judgment and decree dated 18.01.2017 passed by the Civil Judge (Senior Division), Gurdaspur whereby the suit of the respondent-plaintiff was dismissed wherein she had sought a declaration to the effect that she was entitled for release of service benefits of her late husband Kulwinder Singh being the legally wedded wife along with interest @12% per annum compounded from the date of entitlement till the date of realization.

It is the contention of the learned counsel for the appellants that the suit, which had been filed by the respondent-plaintiff Baljeet Kaur being the legally wedded wife of the deceased Kulwinder Singh, Junior Technician Grade-IV, office of Executive Engineer, Kandi Area Dam Maintenance Mandal, Hoshiarpur, has been dismissed by the trial Court vide judgment and decree dated 18.01.2017 on the ground that she has failed to prove her marriage with the deceased Kulwinder Singh and in the

absence of the proof of marriage with deceased Kulwinder Singh, she was not entitled to the decree, as prayed for. Counsel contends that the learned Lower Appellate Court had proceeded on the assumption as if the certificate/report dated 22.11.2012 Ex. D-3 clearly mentioned that there was a marriage which has taken place between the respondent-plaintiff Baljeet Kaur and deceased Kulwinder Singh on 30.06.2010. His submission is that the said document was a certificate which was issued by the Sub-Divisional Magistrate, Gurdaspur relatable to the issuance of the dependent certificate. He contends that the said report could not have been relied upon as ultimately, the dependent certificate had been issued by the Deputy Commissioner in favour of the parents of the deceased i.e. Gurmej Singh and Gurbachan Kaur. He, thus, contends that the judgment and decree, as passed by the learned Lower Appellate Court, cannot sustain.

Assertion has also been made that the marriage certificate, on which reliance has been placed by the respondent-plaintiff i.e. Ex. PZ alleged to have been issued by the Gurdwara Tahli Sahib, Gahladi, Gurdaspur, is without any date nor does it contains the signatures either of the deceased Kulwinder Singh or that of the respondent-Baljeet Kaur. The said document, therefore, could not have been relied upon by any of the Courts. He, thus, contends that the document Ex. PZ, which is without support of any records of Gurdwara Tahli Sahib, could not have been taken into consideration by the Lower Appellate Court for granting the benefit to the respondent-plaintiff. Prayer has, thus, been made for setting aside the impugned judgment dated 15.12.2017 passed by the Additional District Judge, Gurdaspur.

I have considered the submissions made by the learned counsel

for the appellants and with his assistance, have gone through the records of the case.

The basic issue, which requires to be considered and decided by this Court, is whether the respondent-Baljeet Kaur was the legally wedded wife of Kulwinder Singh or not?

Even if the certificate Ex. PZ, which is alleged to be a certificate issued with regard to the marriage between Kulwinder Singh and Baljeet Kaur is ignored keeping in view the fact that the same has not been proved by production of the records of the Gurdwara Sahib and further that the said certificate does not contain signatures of the deceased Kulwinder Singh or Baljeet Kaur, still the certificate/report of the Sub-Divisional Magistrate, Gurdaspur dated 22.11.2012 Ex. D-3, which has been submitted by the said officer in pursuance to the directions of the Deputy Commissioner, Gurdaspur for issuance of the dependent certificate, clearly mentions that the deceased Kulwinder Singh was married to Baljeet Kaur d/o Sh. Gurnam Singh, Village Mansoor on 30.06.2010. Although it has been mentioned in the said report that due to strained relations between them, they had agreed for a divorce in the presence of the respectables of the village, Sarpanch and Lamberdar after a period of two months of marriage and that at the time of death of Kulwinder Singh he was living alone and got the names of his father and mother entered in the service record as his heirs but the said aspect with regard to there being a marriage between them stands established and that of the private respondents i.e. the parents of deceased cannot be said to be correct that there was no marriage between them.

The factum of the marriage having been, therefore, established on the basis of the said certificate and there being no decree of divorce obtained from any Court even if there was an agreement for divorce, which aspect has also not been proved on record as neither the Sarpanch nor any other person, who was present at the time when such agreement of divorce was entered into. The conclusion, which has been drawn by the Lower Appellate Court that Baljeet Kaur was the legally wedded wife of Kulwinder Singh cannot be faulted with as nothing has come on record which would show that the marriage was ever dissolved by way of any decree of divorce issued by the competent Court of law.

The certificate/report of the Sub-Divisional Magistrate, Gurdaspur dated 22.11.2012 Ex. D-3 is an official document which was in pursuance to the request made by the parents of the deceased Kulwinder Singh for issuance of the dependent certificate which certificate indeed was issued on 18.01.2013. This certificate only shows that they were dependent upon the deceased and did not establish the factum of there being ever a divorce between the deceased Kulwinder Singh and Baljeet Kaur. The findings, therefore, as recorded by the Lower Appellate Court in its judgment and decree under challenge, cannot be faulted with.

In view of the above, finding no merit in the present appeal especially when there is no question of law involved it deserves dismissal.

Ordered accordingly.

CM-19374-C-2018

In view of the dismissal of the main appeal, the present

application has been rendered infructuous and the same is disposed of as such.

October 04, 2019
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No