

CR-5120-2019 (O&M)

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

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Date of decision : 28.01.2020

Harman Singh

... Petitioner

Versus

Gurmeet Kaur @ Kuldeep Kaur and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. Sharad Mehra, Advocate
for the respondents.

ALKA SARIN, J.

The present revision petition has been filed challenging the order dated 31.05.2019 (Annexure P-6), whereby the application filed by the defendant for amendment of the affidavit appended to the written statement has been allowed.

2. The brief facts necessary to be noticed in the present controversy are that the plaintiff-petitioner had filed a suit for declaration and permanent injunction stating therein that the father of the plaintiff-petitioner, namely, Hardev Singh died on 19.06.2014 and after his death, the plaintiff-petitioner filed an application to the revenue authorities for sanctioning of the mutation, but the revenue authorities sanctioned the mutation of inheritance in connivance with the defendants in favour of the plaintiff-petitioner and defendant-respondent No.1 in equal shares.

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3. The case set up in the plaint was that defendant-respondent No.1, who is the mother of the plaintiff-petitioner, got a panchayati divorce from her husband i.e. father of the plaintiff-petitioner, vide panchayati order dated 14.06.2004 and thereafter, she got married with one Kulwant Singh son of Jit Singh.

4. Defendant-respondent No.1 filed her written statement, wherein the allegation that she had taken divorce from her husband-Hardev Singh was categorically denied. It was further denied that she was ever married to Kulwant Singh as alleged in the plaint. In support of the written statement, an affidavit was filed by defendant-respondent No.1, wherein inadvertently, she was mentioned as wife of Kulwant Singh.

5. Defendant-respondent No.1 moved an application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') for correction of the said affidavit. In the said application, it was stated that inadvertently, the Clerk while preparing the affidavit had written that she was wife of Kulwant Singh. However, the said word 'wife of Kulwant Singh' was removed by affixing fluid on it, but fluid over a period of time had faded and the said words were showing on the affidavit. It was further stated that the words were written with a pen by the Clerk from the address as given in the plaint.

6. The application was contested by the plaintiff-petitioner.

7. The trial Court vide impugned order dated 31.05.2019 allowed the said application and permitted the defendant-respondent No.1 to file additional affidavit in support of her written statement.

8. I have heard learned counsel for the parties.

9. The only amendment sought is regarding the amendment in the

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affidavit appended in support of the written statement. A perusal of the written statement clearly reveals that it had categorically been denied by defendant-respondent No.1 that she got a divorce from Hardev Singh and that she was married to Kulwant Singh. It is not a case that she was wanting to withdraw admission made in the written statement. The mistake in the affidavit appears to be inadvertent inasmuch as in the written statement, the factum of marriage to Kulwant Singh has categorically been denied.

10. In view of the above, I do not find any illegality and perversity in the impugned order (Annexure P-6) passed by the trial Court. Accordingly, the present revision petition being devoid of merit is dismissed.

28.01.2020
Yogesh Sharma

(ALKA SARIN)
JUDGE

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