

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

RSA-166-2021(O&M)

Date of decision:22.03.2021

Top Khana Abhilekh Record Officer and another

.....Appellants

Versus

Daljit Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.K.Sharma, Advocate for the appellants

ANIL KSHETARPAL, J.

The defendant no. 1 and 2 have filed this Regular Second Appeal against the judgment passed by the learned First Appellate Court.

The dispute is with regard to entitlement to the pensionary benefits of Late Sh. GNR Mohinder Singh. The plaintiff-respondent no.1-Smt. Daljit Kaur, claims the amount being his widow as his first wife i.e Bant Kaur after getting divorce from him, got re-married with Kartar Singh. The suit was defended by defendant no.1 and 2 (appellants herein) on the ground that as per the record Late Sh. Mohinder Singh was married to Smt. Bant Kaur on 01.07.1957. Smt. Bant Kaur defended the suit by taking a defence that she was married to Late Sh. Mohinder Singh in the year 1960 and a daughter Kuldeep Kaur was born. It was also pleaded that Late Sh. Mohinder Singh left her in 1964, however, their marriage was never dissolved.

Learned trial court dismissed the suit on the ground that the

plaintiff failed to prove that any divorce had taken place between Late Sh. Mohinder Singh and Smt.Bant Kaur. The respondent- plaintiff Smt.Daljit Kaur filed an appeal before the learned First Appellate Court. Smt. Bant Kaur appeared and suffered a statement that she was divorced by Late Sh.Mohinder Singh and thereafter, she got re-married to Kartar Singh. Hence, she made a statement that she has no objection if the pensionary benefits are released in favour of Smt. Daljit Kaur exclusively. On the basis of the aforesaid statement, learned First Appellate Court has decreed the suit.

It has come on record that after Late Sh.Mohinder Singh got married with Daljit Kaur. The couple was blessed with four children i.e Jaswant Singh, Harjinder Singh, Gurnam Kaur and Manjit Kaur. Learned counsel appearing for the appellants submits that since Smt. Bant Kaur had never legally divorced by Late Sh.Mohinder Singh, therefore, respondent-plaintiff Smt. Daljit Kaur cannot be held to be entitled to the pensionary benefits.

No doubt, there is some substance in the arguments of the learned counsel for the appellants, however, once Smt. Bant Kaur herself has given up her right, particularly, keeping in view the fact that thereafter, Late Sh.Mohinder Singh had got remarried with Smt.Daljit Kaur and the couple was blessed with four children and Smt. Bant Kaur had also got remarried with Kartar Singh.

Keeping in view the aforesaid facts, learned First Appellate Court cannot be said to have erred in directing the payment of pensionary benefits to Smt. Daljit Kaur. The appellants are required to

pay the amount of pensionary benefits to Smt. Dalip Kaur who is the widow of Late Sh. Mohinder Singh, once Smt. Bant Kaur has appeared in Court and suffered a statement relinquishing her right in favour of the other widow. Therefore, this Court does not find any error in the judgment passed by the First Appellate Court.

Hence, dismissed.

22.03.2021

rekha

Whether speaking/reasoned

Yes /No

Whether Reportable

Yes / No

**(ANIL KSHETARPAL)
JUDGE**