

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

109

**RSA-3491-2019 (O&M)
Date of decision: 01.08.2022**

Lakhwinder Kaur @ Beant KaurAppellant

Versus

Paramjit Kaur and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Piyush Khanna, Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

A suit for declaration along with consequential relief of permanent injunction was filed by the plaintiffs claiming to be the legal representatives of the deceased employee namely Didar Singh, being his mother and daughter respectively. It was claimed that both were thus entitled to receive all the death benefits, compassionate job and other benefits etc. A prayer was also made for not releasing the death benefits etc. in favour of defendants No.3 and 4 as defendant No.3 was not the legally wedded wife of deceased Didar Singh.

Parties to the *lis* hereinafter shall be referred to by their original positions in the suit.

Didar Singh was serving at Veterinary Hospital, Nakodar for the last 30 years. He expired on 13.10.2013. It was pleaded by the plaintiffs that they were the legal representatives of said Didar Singh. They moved an application to defendants No.1 and 2/department on 06.11.2013 after the death of Didar Singh for the release of his death benefits etc. to them, however, their application did not find favour with the defendants/department. The plaintiffs later came to know that

defendants No.3 and 4 i.e. Lakhwinder Kaur and her daughter had applied for the death benefits of deceased Didar Singh by claiming themselves to be his widow and daughter respectively. It was claimed that the mother of plaintiff No.1 namely Pushpa i.e. wife of Didar Singh expired after the birth of plaintiff No.1 and thereafter Didar Singh had kept Lakhwinder Kaur and her daughter with him, however, no marriage had ever taken place between Didar Singh and defendant No.3. Hence, she was not the legally wedded wife of the deceased employee as claimed by her before the defendants/department. It was claimed that at best it was a live in relationship between defendant No.3 and the deceased employee.

In their written statement, defendants No.1 and 2 submitted that defendants/department had not yet released the service benefits of deceased Didar Singh in favour of anybody much less defendants No.3 and 4. It was also submitted that application dated 06.11.2013 submitted by the plaintiffs was still under consideration. Defendants No.3 and 4 filed their separate written statement and disputed that plaintiff No.1 was the daughter of Didar Singh. It was also claimed that defendant No.3 was the legally wedded wife of deceased Didar Singh though it was her second marriage with deceased Didar Singh. It was also submitted that prior to her marriage with Didar Singh she was called Beant Kaur, however, after marriage deceased Didar Singh would call her by the name of Lakhwinder Kaur. It was further submitted that in the year 1995, Didar Singh applied for a new ration card and while filling in the form (Ex.D1) he recorded the names of both defendant No.3 Lakhwinder Kaur and defendant 4 in it. It was

claimed that the deceased had in fact been disinherited by his mother i.e. plaintiff No.2. Not only this, the deceased had all along been residing with defendants No.3 and 4 and even all his last rites were performed by them.

On the basis of material and other evidence led, both the Courts concurrently concluded that it stood proved that the plaintiffs were the daughter and mother respectively of deceased Didar Singh. Still further, Jaswinder Kaur (defendant No.4) while stepping into the witness box as DW-1 admitted that the name of her father was Malkiat Singh and she had not been adopted by deceased Didar Singh. Furthermore, defendant No.3 Beant Kaur while stepping into the witness box also admitted that her daughter i.e. defendant No.4 was not related to deceased Didar Singh by blood. It was also admitted by DW-3 Beant Kaur that initially she was married with one Kundan Singh and without taking any divorce, she had then married Malkiat Singh. Though she deposed that she had obtained divorce from Malkiat Singh, however, she failed to lead any evidence in the said regard.

Learned counsel for the appellant/defendant No.3 vehemently contends that there was enough evidence in the form of photographs, ration card, voter ID etc. from which an inference qua the marital status of defendant No.3 with deceased Didar Singh could be drawn, however, Courts below had erred in not appreciating the same. Learned counsel further submits that her divorce papers with Malkiat Singh could not be produced by defendant No.3 as they had been retained by her father and were not in her possession anymore.

I have heard learned counsel and perused the material

placed on record.

Admittedly, defendant No.3 Beant Kaur failed to produce any evidence on record from which it could be discerned that she and deceased Didar Singh had entered into a legal marriage. Since defendant No.3 did not even produce any evidence qua her divorce from her earlier husband, a presumption of she being in a relationship in the nature of a marriage was rightly not drawn in her favour by the Courts below. Mere production of photographs or even voter ID would not come to the rescue of defendant No.3 qua her marital status with the deceased so as to entitle her and her daughter to the death benefits etc. of Didar Singh.

Upon being pointedly asked, learned counsel for the appellant/defendant No.3 failed to refer to anything on record to show that the conclusions arrived at by the Courts below were either contrary to the record or suffered from any material illegality. The appeal, being devoid of merit, is accordingly dismissed. The judgments and decrees of the Courts below are affirmed.

Dismissed.

01.08.2022
Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No