

CM-5717-C-2022 ;
CM-5716-C-2022 ;
CM-5718-C-2022 in/and
RSA-1739-2022

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110) CM-5717-C-2022 ;
CM-5716-C-2022 ;
CM-5718-C-2022 in/and
RSA-1739-2022
Date of Decision : 23.01.2023

Shiksha

...Appellant

Versus

The Commissioner, Excise and Taxation Department, Patiala and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gursimran Singh Bawa, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

CM-5717-C-2022

Present application has been filed seeking condonation of delay
of 150 days in re-filing the appeal.

Keeping in view the averments made in the application, which
is duly supported by an affidavit, the same is allowed and delay of 150
days in re-filing the appeal is condoned.

CM-5716-C-2022

Application is allowed, as prayed for.

RSA-1739-2022

The present regular second appeal has been filed challenging

**CM-5717-C-2022 ;
CM-5716-C-2022 ;
CM-5718-C-2022 in/and
RSA-1739-2022**

2

the order passed by the trial court dated 21.05.2019 by which, the suit filed by the appellant-plaintiff seeking direction to the respondent-department to give the service benefits in respect of services rendered by deceased, namely, Som Pal, who was serving as a Sweeper with the respondent-department, after he died on 29.06.2014 claiming to be his legally wedded wife, has been dismissed. The said suit was contested by the respondent-department as well as respondent No. 3-Ranjit Kaur, who also claimed the benefits in respect of the service rendered by Som Pal, claiming to be his legally wedded wife. The trial court dismissed the suit filed by the appellant-plaintiff holding that no evidence has come on record to show that appellant-plaintiff was ever wedded to Som Pal so as to claim the service benefits after the death of Som Pal by treating her as widow of Som Pal and a finding was recorded by the trial court that respondent No. 3 i.e. Ranjit Kaur has already placed on record documentary evidence showing her to be the legally wedded wife of Som Pal. The judgment of the trial court dated 21.05.2019 was assailed by the appellant-plaintiff before the lower appellate court but the appeal filed by the appellant-plaintiff was also dismissed by the lower appellate court vide order dated 28.10.2021. The present regular second appeal has been filed challenging the judgment of the trial court dated 21.05.2019 as well as judgment of the lower appellate court dated 28.10.2021.

Learned counsel for the appellant-plaintiff submits that the evidence, which the appellant-plaintiff had brought on record, has not been considered by the courts below while recording the finding that respondent

**CM-5717-C-2022 ;
CM-5716-C-2022 ;
CM-5718-C-2022 in/and
RSA-1739-2022**

3

No. 3-Ranjit Kaur is the legally wedded wife of Som Pal and is entitled for the service benefits after death of Som Pal in the year 2014. Learned counsel for the appellant-plaintiff further submits that the children of Som Pal from his first marriage, namely, Aarti and Ajay i.e. defendants no. 4 and 5 were living with the appellant-plaintiff, which shows that the appellant-plaintiff is the legally wedded wife of Som Pal so as to claim the service benefits.

As far as the said argument of the appellant-plaintiff is concerned, merely that the children of Som Pal from his first wife were living with the appellant-plaintiff, the same will not give a title to the appellant-plaintiff of a legally wedded wife of Som Pal. The factum of the marriage is to be proved on the basis of the evidence that the marriage was solemnized. Learned counsel for the appellant-plaintiff concedes before this Court during the hearing that no such document was ever brought on record to show that the appellant-plaintiff is the legally wedded wife of Som Pal so as to become entitled for the service benefits in respect of the service rendered by Som Pal. That being so, once there is no document showing the appellant-plaintiff to be the legally wedded wife of Som Pal, it cannot be said that the findings recorded by the courts below are perverse or contrary to any fact or the evidence, which has come on record.

Further, from the perusal of the judgment dated 21.05.2019 of the trial court, the documentary evidence has been produced by respondent no. 3-Ranjit Kaur, who also claims to be the legally wedded wife of Som Pal, so as to become entitled for service benefits after the death of Som Pal

CM-5717-C-2022 ;
CM-5716-C-2022 ;
CM-5718-C-2022 in/and
RSA-1739-2022

4

on 29.06.2014.

Learned counsel for the appellant-plaintiff concedes that the documentary evidence has been brought on record by respondent no. 3-Ranjit Kaur including the voter list and the other documents to substantiate the fact that she is legally wedded wife of Som Pal. Even the succession certificate has been issued by the competent authority i.e. Deputy Commissioner, Amritsar in favour of respondent no. 3-Ranjit Kaur. That being so, nothing has come on record as to on what basis, the appellant-plaintiff is seeking to discard the said evidence.

No other argument has been raised.

Keeping in view the facts and circumstances of the present case as recorded by the courts below, learned counsel for the appellant-plaintiff has not been able to point out any perversity in the findings of the courts below qua the fact or the findings recorded.

No ground is made out for interference by this court in the present regular second appeal.

Dismissed.

CM-5718-C-2022

As the main appeal has been dismissed, the present application also stands dismissed.

January 23, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No