

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 3993 of 2019 (O&M)****Date of Decision: 22.08.2023**

Manjit Kaur

... Appellant(s)

Versus

Surinder Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ranbir Singh Sekhon, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. This appeal is pending for preliminary hearing for the last four years. The learned counsel representing the appellant pleads no instructions and prays for permission to withdraw his power of attorney. This Court finds that such request of the learned counsel is not appropriate. The appeal was filed through the learned counsel in the month of April, 2019. The case has been adjourned repeatedly on the request of the learned counsel representing the appellant during these four years.

3. Keeping in view the aforesaid facts, the request of the learned counsel representing the appellant cannot be accepted.

4. This Court has gone through the paper-book as the appeal was listed for preliminary hearing in the urgent list.

5. The dispute is with regard to the entitlement of the pensionary benefits. The appellant was a defendant in the suit which was filed by a widow and her two minor children. It is the case of the appellant is that there was a panchayati divorce between Gurdeep Singh and Surinder Kaur. Gurdeep Singh executed a Will in favour of Suirnder Kaur. However, the appellant (defendant) has failed to prove her stand before both the Courts below. It has also been found that there was no decree of divorce passed by any competent Court of jurisdiction between Gurdeep Singh and Surinder Kaur. Moreover, an FIR was also registered against the appellant for forging the Will of Gurdeep Singh. In the grounds of appeal, the appellant has failed to draw the attention of the Court to any misreading or non-reading of the material evidence.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 22, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No