

IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

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CWP-21873-2020 (O&M).  
Date of Decision: 25.04.2023.

**Kamlesh Rani**

.. Petitioner

Versus

**State of Punjab and others**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

Present: Mr. Bhupinder Ghai, Advocate,  
for the petitioner.

Mr. Yadwinder S. Bhangu, AAG, Punjab.

None for applicants-proposed respondents No.5 to 7.

**VINOD S. BHARDWAJ, J. (ORAL)**

**CM-12570-CWP-2023**

The instant application has been filed by the applicants-proposed respondents No.5 to 7 under Order 22 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 for impleading them as respondents No.5 to 7 being sons and daughter of deceased Bihari Lal as the present petition has been filed by the petitioner for seeking claim on the death certificate of Bihari Lal.

Notice in the application had been issued on 06.09.2021 and thereafter, reply to the application on behalf of the petitioner had also been filed praying for dismissal of the said application. However, since 23.11.2021, there is no representation on behalf of the applicants/proposed respondents No.5 to 7 and they have chosen not to appear.

It seems that the applicants-proposed respondents No.5 to 7 are not interested in pursuing the present application. Accordingly, the present application is dismissed

**Main case**

The petitioner seek issuance of directions to respondents No.3 and 4 to rectify the name of the spouse in the death certificate of deceased Bihari Lal who died on account of cardiac arrest on 02.09.2020 in the Fortis Hospital, Mohali.

The petitioner is aggrieved with the incorporation of the name of “Harbansi Devi” as spouse of deceased Bihari Lal in the above said death certificate which she claims to have been erroneously entered since “Harbansi Devi” is the pre-deceased mother of deceased Bihari Lal and that the petitioner herein i.e. “Kamlesh Rani,” in fact is the spouse.

It is contended by the learned counsel appearing on behalf of the petitioner that deceased Bihari Lal was an Army officer and solemnized marriage with the petitioner on 07.11.2011 as per Hindu rites and ceremonies. The above said marriage was got registered as per the Hindu Marriage Act, 1955 on 25.10.2013. He contends that this was a second marriage of the petitioner as well as Bihari Lal. The petitioner was earlier married to one Vijay Kumar and her divorce was allowed by the Court of Additional District Judge, Panipat vide decree dated 04.05.2001 passed in HMA Case No.47 of 2001. The first wife of Bihari Lal had also expired in the year 2008. He was hence a widower on the date of marriage. After the solemnization of marriage, the petitioner had been residing with her husband Bihari Lal who, however, died on account of cardiac arrest on 02.09.2020 at Fortis Hospital, Mohali. A death certificate (Annexure P-2)

was issued on 14.09.2020 wherein the name of spouse was inadvertently mentioned as “Harbansi Devi” instead of “Kamlesh Rani”-petitioner herein. An application for correction of the name was submitted by the petitioner with the Department of Health and Family Welfare, Punjab on 21.09.2020 (Annexure P-3). A communication was also addressed by the Fortis Hospital on 14.10.2020 highlighting the clerical mistake in the death certificate and requesting for rectification thereunder. However, the needful was not done. The Director, Department of Health and Family Welfare, Punjab, also passed a formal order dated 04.11.2020 on the representation dated 21.10.2020 to carry out necessary rectification as per the rules and regulations. However, the same has not been carried out. Resultantly, the present petition was filed.

Reply by way of affidavit of Dr.Adarshpal Kaur, Civil Surgeon, on behalf of respondents No.3 and 4 dated 21.01.2022 has been filed wherein they acknowledged the receipt of the application from the petitioner for carrying out rectification in the death certificate. However, it is pointed out that Vijay Kumar son of Bihari Lal had moved an application dated 13.12.2020 to the office of CMO, Mohali, in which it was alleged that marriage of Kamlesh Rani with Bihari Lal was void and he relied upon the order dated 01.06.2017 passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Mohali, wherein it was mentioned that “Upon examination of the photocopies produced by the opposite party, it transpired that Kamlesh Rani is the wife of some other person.” Reference was also made to the order dated 16.10.2017 passed by the Court of Smt.Gurpreet Kaur Sapra, IAS, Deputy Commissioner-cum-Presiding Officer, Maintenance Tribunal, S.A.S. Nagar, whereby appeal filed under the

Maintenance & Welfare of Parents and Senior Citizens Act, 2007 by the deceased husband of the petitioner was dismissed. It was averred in the said objection that the true facts have been concealed and that the petitioner, not being the spouse of deceased Bihari Lal, there was no occasion for incorporation of her name in the death certificate. It was stated that name of Pushpa Rani should, in fact, be entered in the column of spouse.

While responding to the averments on merits, the respondent No.3 does not dispute the fact that name of "Harbansi Devi" was inadvertently mentioned in the death certificate and that "Harbansi Devi" was mother of deceased Bihari Lal.

The order passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Mohali, has also been appended along with the aforesaid reply as Annexure R-2 along with the complaint/objections submitted by Vijay Kumar son of Late Bihari Lal.

Additional reply on behalf of respondents No.1 to 4 by way of affidavit Dr. Adarshpal Kaur, Civil Surgeon, Phase 6, S.A.S. Nagar, Mohali dated 10.11.2022 had also been filed wherein the above said objections/reasons had been reiterated.

Learned counsel for the petitioner, however, controverts the stand of the respondents and submits that it is indeed undisputed that the petitioner performed second marriage with deceased Bihari Lal and that he was earlier married to one Pushpa Rani. He places reliance on the death certificate Annexure P-11 dated 31.12.2008 wherein the factum of death of Pushpa Rani first wife of Bihari Lal has been recorded. He, however, contends that in so far as death of "Harbansi Devi" is concerned, the same is not disputed or denied by the respondents while replying to the present

petition. Harbansi Devi was wife of Udham Ram and not that of Bihari Lal. He also refers to the decree dated 04.05.2001 passed by the Additional District Judge, Panipat, annulling the earlier marriage of petitioner with Vijay Kumar son of Gian Chand and submits that the order passed by the Sub Divisional Magistrate-cum-Maintenance Tribunal, Mohali, is not applicable to the petitioner since she was never a party in the said proceedings and the decree of her divorce from her former husband has not been brought on record of the above said case. Besides, a perusal of the order also shows that even the marriage registration certificate of the petitioner with Bihari Lal had not been placed on record. He contends that Sub Divisional Magistrate-cum-Maintenance Tribunal, Mohali, is thus not the competent Authority to comment on the legality and validity of the marriage which has otherwise been solemnized as per the provisions of the Hindu Marriage Act, 1955 and had been duly registered.

Learned counsel for the petitioner further contends that an application for impleading the complainant Vijay Kumar son of deceased Bihari Lal and his other LRs had also been moved for impleading them as respondents No.5 to 7. A notice in the said application had also been issued on 06.09.2021 and the reply has also been filed, however, applicants-respondents No.5 to 7 have chosen not to represent themselves in the present proceedings even though, they were represented by Mr.G.P.S.Ghuman, Advocate.

Having chosen not to dispute the documents relied upon by the petitioner, the objection raised by Vijay Kumar son of deceased Bihari Lal would not be sustainable and deserves to be discarded.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

The facts which emerge on consideration of the documents available on record are as under:-

- (i) Kamlesh Rani petitioner herein solemnized marriage with the deceased Bihari Lal on 07.02.2011 and the said marriage was duly registered on 25.10.2013. The marriage certificate appended as Annexure P-1 has not been disputed or denied in the response filed by the respondents.
- (ii) Death of Bihari Lal occurred on 02.09.2020 and a certificate in this regard was issued on 14.09.2020 and in the column relating to the name of spouse, name of Harbansi Devi i.e. mother of deceased Bihari Lal had been entered. The respondents in their reply have admitted that Harbansi Devi was mother of Bihari Lal.
- (iii) The petitioner is a divorcee and her earlier marriage performed with Vijay Kumar was dissolved vide decree dated 04.05.2001 passed by the Additional District Judge, Panipat.
- (iv) Deceased Bihari Lal was formerly married to one Pushpa Rani who died in December 2008. Death certificate of Pushpa Rani has been attached as Annexure P-11. The said certificate is also not a subject matter of dispute. The objection raised by Vijay Kumar

son of deceased Bihari Lal was regarding incorporating the name of Pushpa Rani in the column pertaining to the spouse, however, considering that she had pre-deceased the husband and death certificate had already been issued and that thereafter Bihari Lal had solemnized second marriage with the petitioner, the entitlement of the petitioner to get her name incorporated in the column of spouse cannot be disputed or denied.

(v) The reference made to the order passed by the Sub Divisional Magistrate cum Maintenance Tribunal, Mohali, is misconceived as the aforesaid order clearly shows that the petitioner was not a party to the said proceedings. Besides there is nothing on record to suggest that the decree of divorce annulling the former marriage of petitioner with Vijay Kumar and/or the registration certificate of the subsequent marriage performed by the petitioner with deceased Bihari Lal was ever brought to the notice of the Sub Divisional Magistrate cum Maintenance Tribunal, Mohali. Consequently, the order passed by Sub Divisional Magistrate-cum-Maintenance Tribunal, Mohali, cannot be held to be binding upon the petitioner or to be held against her to seek incorporation of her name as the spouse of deceased Bihari Lal.

(vi) The complainant Vijay Kumar son of deceased Bihari Lal and other LRs have chosen not to enter appearance

in the present proceedings despite being earlier represented by a counsel. Their failure to file a response or to dispute/controvert the pleadings raised and/or the documents filed by the petitioner leaves no room for doubting the legality or validity of the documents that have been appended.

- (vii) In so far as the reference to the proceedings appended as Annexure P-9 are concerned, the same have been seen and it transpires from the above that the petitioner herein had instituted proceedings under the Protection of Women from Domestic Violence Act, 2005 against one Avtar Singh claiming that she had entered into live-in relationship with said Avtar Singh who had agreed to take care of her as well as of her minor daughter. The said proceedings were dismissed by the Court of Judicial Magistrate First Class, Ambala, after recording that there was no evidence to demonstrate that any live-in relationship had ever fructified between the parties. The said document could at best show that the petitioner had claimed to be in live-in relationship with Avtar Singh, however, even the said document fails to establish that she was in a subsisting matrimonial relationship which is required to be terminated before entering into another marriage. There is no requirement of seeking a decree of annulment in a live-in relationship unless the declaration claiming such live-in relationship as the matrimonial

relationship has been granted. Dismissal of the aforesaid application cannot be held to give rise to a presumption that notwithstanding dismissal of the complaint on the ground of failure to establish live-in relationship with Avtar Singh, yet for the purpose of the present petition, she must be presumed to have entered into a matrimonial relationship with another person and that without dissolution/annulment, the registered marriage with deceased Bihari Lal would be a nullity.

Accordingly, while placing reliance on the undisputed documents appended along with the present petition (for the sake of adjudication of the present *lis* alone), the present petition is allowed. The respondents are directed to carry out necessary modification in the death certificate of late Bihari Lal. Let name of the petitioner Kamlesh Rani be entered in the column of spouse in the said death certificate.

**April 25, 2023**  
**raj arora**

**(VINOD S. BHARDWAJ)**  
**JUDGE**

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