



In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 5352 of 2018

Amarjit Pachoo

... Petitioner(s)

Versus

Previn Pachoo and Another

... Respondent(s)

AND

2. Civil Revision No. 5408 of 2018(O&M)

Amarjit Pachoo

... Petitioner(s)

Versus

Previn Pachoo and Another

... Respondent(s)

DATE OF DECISION: 04.04.2025

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. C.L.Premy and Ms. Amarjit Kaur, Advocates
for the petitioner(s).

Mr. Vinay Kataria, Advocate
for the respondent.

Anil Kshetarpal, J.

1. With the consent of the learned counsel representing the parties, two connected revision petitions i.e. Civil Revision No. 5352 of 2018 and No. 5408 of 2018 shall stand disposed of by this common order.

2. The petitioner herein has filed a suit for the grant of decree of declaration that the decree of divorce dated 11.09.2015, obtained by the defendant No.1 against the plaintiff from the Family Court at Slough, United Kingdom, is null and void and in violation of the Hindu Marriage

Act, 1955.

3. The prayer made in the suit reads as under:-

“It is therefore, most respectfully prayed that in view of the position detailed above, the suit of the Plaintiff may kindly be decreed and the decree of divorce dtd. 11.09.2015 granted by the Family Court, Slough (UK) without jurisdiction may kindly be declared as null and void and invalid as the same has been granted in violation of the Indian law applicable to the Plaintiff and Defendant No.1 because their marriage is governed by the Hindu Marriage Act, 1955 and as per settled law any decree of Divorce by a Foreign Court is not valid in India.

It is further prayed that any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may kindly be granted in favour of the plaintiff with Cost.”

4. The defendants, while entering appearance, filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”). It was disclosed that on 11.09.2015, the Court in United Kingdom only issued a Certificate of Entitlement of Divorce, which was followed by the order dissolving the marriage on 30.11.2015. The plaintiff filed an application for permission to amend the plaint which was unfortunately dismissed by the Trial Court. Subsequently, the Court also rejected the petitioner's plaint.

5. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

6. The learned counsel representing the petitioner submits that the case was at the initial stage as the defendants were yet to file the written statement. He further submits that the Trial Court has taken a narrow view of the matter particularly when the plaintiff has alleged that he was deprived of a proper opportunity to contest the case in the United Kingdom.

7. Per contra, the learned counsel representing the respondents submits that an application for rejection of the plaint was filed first in point of time. Hence, the plaintiff could not have filed an application for amendment.

8. This Court has considered the submissions of the learned counsel representing the parties, however, finds no substance in the objection of the respondents.

9. The plaintiff has already filed a suit for decree of declaration that the decree of divorce granted by the Family Court at Slough, United Kingdom, is without jurisdiction and only the date of decree/order granting divorce is sought to be substituted. While deciding such application, the Court is required to take a holistic view of the matter while adopting a pragmatic approach. The rules of procedure are the handmaid of justice. These cannot be used to defeat the justice.

10. Keeping in view the aforesaid discussion, both the revision petitions are allowed. The impugned orders passed by the Trial Court dismissing the application for permission to amend the plaint and for rejecting the plaint shall stand set aside. The suit filed by the plaintiff is restored to its original number. The plaintiff shall be permitted to amend the plaint and thereafter, the Trial Court will proceed with the matter.

11. The miscellaneous application(s) pending, if any, in both the cases, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 04, 2025
“DK”

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