



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

203

RSA-6293-2014 (O&M)

DATE OF DECISION: 09.01.2025

PARO BAI @ PARBHATI

...APPELLANT

Versus

SATYA DEVI ETC.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajesh Bhateja, Advocate for
Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, Advocate
for respondent No.1.

Mr. Shivoy Dhir, Sr. Panel Counsel
for UOI.

SANDEEP MOUDGIL, J (ORAL)

1. The regular second appeal preferred before this Court is against the concurrent findings in a Civil Suit for declaration filed by respondent No.1-Satya Devi claiming herself to be the legally wedded wife of late Sh. Radha Krishan sought entitlement to pension/family pension and other retiral benefits from respondents No.2 to 4.

2. The suit was decreed vide judgment and decree dated 22.03.2013 in favour of the plaintiff/respondent No.1 whereby respondents No.2 to 4-defendants No.1 to 4 were restrained from disbursing the amount of pension/family pension and other retiral benefits in favour of appellant/defendant No.5.



3. The appellant/defendant No.5-Paro Bai @ Parbhati filed a civil appeal under Section 96 of the Civil Procedure Code which was also dismissed vide judgment and decree dated 18.11.2014.

4. The factual backdrop leading to the present case can be read as that the plaintiff/respondent No.1 claims to be a legally wedded wife of late Sh. Radha Krishan alleging that she solemnized marriage at Nazafgarh, New Delhi on 25 Falgun Samvat 2017 as per Hindu Rites and Rituals and stayed together as husband and wife at Ladhu Ka Tehsil Fazilka. It was the place of posting of her alleged husband Sh. Radha Krishan Sharma. The deceased husband was employed in Northern Railway who retired from the office of DRM, Ferozepur with PPO No.0198051516 having pension account was with Panjab National Bank, Branch Jalalabad (West), District Ferozepur. The plaintiff-responder No.1 namely Satya Devi also claimed to have one son born out of the said wedlock on 21.11.1961 namely Ravinder Kumar Sharma and late Radha Krishan is stated to have expired on 01.06.2009 at Jalalabad (West), District Ferozepur. This marriage is stated to be subsisting even now and as such, Sh. Radha Krishan could not marry any lady including Paro Bai @ Parbhati-defendant No.5/present appellant.

5. The interesting fact of this suit which made the issue complex is that defendant No.5-appellant has been recorded as nominee shown as his wife in the PPO of the deceased Radha Krishan and the status of that marriage was disputed by the plaintiff-responder No.1 by filing a suit for declaration. Satya Devi-plaintiff-responder No.1 has relied upon certain documents including Voter I-Card issued

of Satya Devi with deceased Sh. Radha Krishan (Ex. P-2), Ex-servicemen Identity Card of the son of plaintiff/respondent No.1 namely Ravinder Kumar (Ex. P-7) to show his parentage, his character certificate, certificate of secondary education, result-cum-detailed mark-sheet of BA-II examination (Ex. P-7/A, Ex. P-9 and Ex. P-10) respectively apart from death certificate of late Sh. Radha Krishan as Ex. P-1, postal receipts addressed to the General Manager, Northern Railway, Baroda House, New Delhi as Ex. P-2, UPC receipts, legal registered AD notice under Section 80 CPC by plaintiff/respondent No.1 as Ex. P-3 to Ex. P-6, respectively, copy of ration card of plaintiff/respondent No.1 namely Satya Devi Ex. P-11 & Ex. P-11/A bearing name of other family members.

6. The defendant No.1 was put on notice who filed a written statement and examined Harnek Singh as DW-1, herself as DW-2, one Rajinder Pal as DW-3 in oral evidence along with documentary evidence in the form of PPO Ex. D-1, photocopy of application form of Pension/Gratuity in favour of Paro Bai @ Parbhati as Ex. D-3, the specimen signatures of deceased Radha Krishan as Ex. D-4, photocopy of permanent address and mode of payment as Ex. D-5, a copy of declaration form Ex. D-6 and photocopy of sanction of family pension as Ex. D-8. The trial Court framed following issues on the basis of pleadings made by the parties to the present is:-

- 1. Whether the plaintiff is the legally wedded wife and now widow of the deceased Radha Krishan? OPP*
- 2. Whether the plaintiff is entitled to pension/family pension and other retiral benefits of deceased Radha Krishan? OPP*
- 3. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for? OPP*



4. Whether the instant suit of the plaintiff is not maintainable? OPD

5. Whether the plaintiff has no cause of action or locus-standi to file the present suit against the defendants? OPD

6. Whether the plaintiff has concealed material facts and has not approached the court with clean hands? OPD

7. Relief.

7. The trial Court while adjudicating the suit dealt with first three issue collectively including the test qua marriage of the plaintiff/respondent No.1 with deceased Radha Krishan and relief of permanent injunction alongside entitlement to pension/family pension with retiral benefits.

8. The trial Court observing that in the absence of any evidence regarding the ceremonies performed qua the alleged marriage between late Shri Radha Krishan and defendant No.5/appellant namely Paro Bai and that no divorce has taken place between Satya Devi and late Shri Radha Krishan while taking note of deposition by PW-5 namely Jai Gopal brother-in-law of Radha Krishan to the effect plaintiff/respondent No.1 Satya Devi was wife of late Radha Krishan and no divorce had ever taken between them, held that the plaintiff/respondent No.1 Satya Devi successfully proved its case. The trial Court thereafter decreed the suit declaring the plaintiff/respondent No.1 Satya Devi to be entitled with pensionary benefits of deceased Radha Krishan as legally wedded wife of deceased Radha Krishan. While deciding issue No.1 to3 in favour of the plaintiff/respondent No.1 Satya Devi the decree for permanent injunction was granted.



9. The said judgment and decree dated 22.03.2013 was challenged before the Court of Additional District Judge, Fazilka by way of filing Civil Appeal under Section 96 of Civil Procedure Code. The appeal was dismissed vide order dated 18.11.2014 upholding the judgment and decree passed by the trial Court and now the Regular Second Appeal came up for adjudicating the issue in hand after having concurrent findings on the same against the present appellant.

10. It is contended assailing both the judgments and decree passed by the Courts below that the plaintiff/respondent No.1 never objected the papers including pension and other official records in which deceased Radha Krishan himself nominated the defendant No.5/appellant as his nominee being wife during his life time.

11. Learned counsel for the appellant would also assert that the appellant/defendant No.5 had been receiving the pension since the date of death of her husband Radha Krishan i.e., 01.06.2009 and it was never objected by the plaintiff/respondent No.1 till she filed the present suit on 21.05.2012 in fact no body is stated to have objected to the fact that the appellant's as wife was entered in the pension papers and other official records by none other than deceased Radha Krishan himself. The reliance has also been made on a photograph of the appellant with the deceased Radha Krishan including Government records such as Ration Card, identity card of appellant/defendant No.5 by the Election Commission of India, bank accounts of deceased Radha Krishan showing her name as wife, applications form of pension and gratuity in favour of appellant Paro Bai as Ex.D-3, the declaration form as Ex.D-6 and the sanction of family pension as Ex.D-8, PPO as Ex.D-1 and in



Lower Court ignored these documents to decide issue Nos.1 to 3 against the appellant/defendant No.5.

12. Learned counsel for the appellant also submits that it was the appellant who had been received the family pension every month until the present suit was decreed in favour of the plaintiff/respondent No.1.

13. Mr. Munjal further vehemently pressed that it is proved on the case file that the plaintiff/respondent No.1 never came forward claiming herself to be wife of late Radha Krishan during his life time and on that account itself adverse inference ought to have been drawn by the Courts below since deceased Radha Krishan was the best person to depose the truth and the plaintiff/respondent failed to agitate the issue during the life-time of deceased Radha Krishan. Another fact from which Mr. Munjal has also made an attempt to derive benefit is the challenge made to the judgment and decree dated 22.03.2013 by the Union of India through Indian Railways, who also took a stand that it is the appellant/defendant No.5.

14. The learned counsel appearing for respondent No.1 justifies the legality of impugned judgments and decree passed by both the Courts below stating that the identity card of plaintiff/respondent No.1 Satya Devi issued by Election Commission of India Ex.P-1, the identity card of her son Ravinder Kumar as Ex.P-7 and Ex.P-7/A copy of certificate issued by CBSC New Delhi Ex.P-8, Character certificate Ex.P-9 detailed marks card Ex.P-10 pertaining to B.A. Part II examination, death certificate of deceased Radha Krishan Ex.P-11, postal receipt Ex.P-12 addressed to General Manager Northern



Krishan. Apart from affidavit Ex.PW-1 tendered into evidence by sister of plaintiff/respondent No.1 namely Santosh Sharma and of brother-in-law of deceased Radha Krishan Sharma as Ex.PW-1/A and on the strength of such evidence seeks dismissal of the present Regular Second Appeal. He further states that the case of plaintiff/respondent qua the factum of her marriage with deceased Radha Krishan stands proved by Krishan Wanti, his sister who tendered in evidence her affidavit as Ex.PW/A.

15. Mr. Ramandeep, learned Advocate for respondent No.1 would assert that the appellant having failed to produce any cogent evidence qua the ceremony of her marriage with deceased Radha Krishan, cannot achieve the status that of his wife and as such deserves to be restrained from claiming pension and other retiral benefits.

16. Heard, learned counsel for the parties

17. Having perused the record and gone through the evidence put forth before this Court from the trial Court record. Appellant/defendant No.5 namely Paro Bai appeared in the witness box as DW-2 admitting the fact that she cannot tell the name of deceased Radha Krishan's grand-father and no religious ceremonies of Anand karaj or seven steps around the fire were performed as required under Hindu Marriage Act, 1955. It is on that ground both the Courts below have decreed the suit in favour of plaintiff/respondent No.1 holding that the appellant/defendant No.5 has failed to prove her marriage with deceased Radha Krishan.

18. However, I am of the considered view that the question of legally wedded wife could be answered not by these very facts alone



below while the appellant has deposed to the effect that her marriage was performed in the presence of her brother and brother of her husband, but the same was not registered.

19. Mere non-registration of a marriage also cannot be a ground to declare the appellant/defendant No.5 to be not a legally wedded wife of deceased Radha Krishan especially when throughout very consistently the official record produced by her shows her name recorded as wife by none other than but late Shri Radha Krishan himself. At the same time both the parties to the present lis have though relied upon certain documents like identity card issued by Election Commission of India and ration card etc., apart from few academic certificates of Ravinder Kumar s/o of plaintiff/respondent No.1 Satya Devi but none has the signatures or initials of deceased Radha Krishan, whereas the entries in the official record of Radha Krishan that too in a Government Department i.e., Northern Railways are under his own declaration with due signatures by him right from the very beginning of his service career. It is not a case where at any point of time, the name of nominee in the official record of Radha Krishan got changed and replaced showing appellant Paro Bai-defendant No.5 as his wife.

20. It is also evident and crystal clear from the record on the case file that the plaintiff/respondent No.1 never objected to the release of pension and retiral benefits after the death of deceased Radha Krishan on 01.06.2009 till the filing of suit on 21.05.2012 and it is the appellant/defendant No.5, who has been paid these benefits by the defendants No.1 to 4/Union of India through General



less than 3 years from the date of death of Radha Krishan, the present suit came to be filed and such delay has not been explained as to what stopped the plaintiff/respondent No.1 from agitating and objecting the release of benefits in favour of appellant/defendant No.5.

21. Another important aspect has also been dealt and appreciated wrongly by the Courts below while holding that mere residing of appellant/defendant No.5 namely Paro Bai with deceased Radha Krishan will not confer the status of wife despite the fact that the onus to prove such status and to demonstrate living as husband and wife by her with deceased Radha Krishan was upon plaintiff/respondent No.1 namely Satya Devi.

22. In the light of discussions and reasons recorded hereinabove, the case law relied upon by the Courts below is also mis-directed as those judgments are not directly on the issue wherein questions adjudicated relate only to validity of marriage in the light of customary rights and rituals.

23. In the case in hand, the name of appellant/defendant No.5 gets mentioned in the official record of deceased Radha Krishan entered at his own declaration right from the beginning which is sufficient to believe that even at the time when deceased Radha Krishan entered into the service on 15.03.1963 with northern railways, it was Paro Bai, who was his legal wife and as such recorded her as his nominee. A similar stance has been discussed by the Apex Court in '**Raj Kumari & Anr vs Krishna & Ors on 26 February, 2015**' wherein the Supreme Court held as under :-

14. Normally, pension is given to the legally wedded wife of a deceased employee. By no stretch of imagination one can say that the plaintiff, Smt. Krishna was the legally



wedded wife of late Shri Atam Parkash, especially when he had a wife, who was alive when he married to another woman in Arya Samaj temple, as submitted by the learned counsel appearing for the appellants. We are, therefore, of the view that the High Court should not have modified the findings arrived at and the decree passed by the trial court in relation to the pensionery benefits. The pensionery benefits shall be given by the employer of late Shri Atam Parkash to the present appellants in accordance with the rules and regulations governing service conditions of late Shri Atam Prakash.'

24. Further a photograph shown on the ration card issued by the Inspector, Food and Supplies Department Jalalabad dated 13.11.2003 depict deceased Radha Krishan along with Paro Bai and in the list of family members in that ration card Paro Bai is at Sr. No.2 shown as wife, whereas the ration card produced by Satya Devi/plaintiff/respondent No.1 has the photograph only of her at document Mark-A, which raises doubt on the authenticity of the document itself having not proven as per procedure laid down in the Evidence Act. One more photograph has been placed on record by defendant No.5/appellant in which she can be seen together with deceased Radha Krishan. Further Ex.D-7 statement showing the details of family for the purpose of family pension scheme 1964 has been signed by deceased Radha Krishan dated 05.01.1998 showing Smt. Paro Bai as his wife.

25. Accordingly, I differ with the judgment and decree passed by both the Courts below, which have failed to acknowledge well-reasoned and authenticated evidence in the form of official records of

ration card having joint photograph and deceased Radha Krishan and identity card issued by Election Commission of India of the appellant/defendant No.5 mentioning her husband's name as Radha Krishan. The reasoning by the Courts below revolves around documents relied upon by the plaintiff/respondent which can be disputed wherein none of these could depict the photograph of deceased Radha Krishan alongside plaintiff/respondent No.1 Satya Devi.

26. Accordingly, the civil suit before the trial Court is hereby dismissed and the present Regular Second Appeal stands allowed in favour of defendant No.5/appellant and judgment and decree dated 18.11.2014 and 22.03.2013 are hereby set aside.

27. The decree-sheet be prepared accordingly.

(SANDEEP MOUDGIL)
JUDGE

09.01.2025
Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>