

**(2010) 11 P&H CK 0573**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Regular Second Appeal No. 231 of 2010 (O and M)

Iqbal Kaur

APPELLANT

Vs

Ravneet Kumar

RESPONDENT

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**Date of Decision:** Nov. 2, 2010

**Hon'ble Judges:** L.N. Mittal, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

L.N. Mittal, J.

Plaintiff-Iqbal Kaur having failed in both the Courts below has filed the instant second appeal.

2. The Plaintiff alleged that she was married with Defendant/Respondent Ravneet Kumar on 22.9.1993 according to Sikh rites and ceremonies. They lived together as wife and husband till 14.8.1995, when the Plaintiff was thrown out of the matrimonial home by the Defendant. Accordingly, the Plaintiff sought declaration that she is legally wedded wife of the Defendant. The Plaintiff also sought permanent injunction, restraining the Defendant from performing another marriage during lifetime of Plaintiff and subsistence of marriage between the parties.

3. The Defendant denied that there was any marriage between the parties. Various other pleas were also raised.

4. Learned Civil Judge (Junior Division), Anandpur Sahib, vide judgment and decree dated 1.8.2008 dismissed the Plaintiff's suit. First appeal preferred by the Plaintiff has been dismissed by the learned District Judge, Rupnagar, vide judgment and decree dated 25.5.2009.

5. Feeling aggrieved, the Plaintiff has preferred the second appeal.

6. I have heard the learned Counsel for the Appellant at considerable length and perused the case file.

7. Plaintiff examined Bhupinder Singh PW6 as granthi (priest), who performed marriage ceremony of the parties. However, it is manifest from the testimony of the Plaintiff/Appellant that Bhupinder Singh is a made up witness. The Plaintiff stated that she did not know the name of the granthi, who performed their marriage or the place to which the granthi belonged. If it was so, it is not explained as to how the Plaintiff could examine Bhupinder Singh PW6 as the granthi, who allegedly performed marriage of the parties.

8. Faced with the aforesaid situation, learned Counsel for the Appellant contended that the Plaintiff/Appellant stated that her father had engaged the granthi and, therefore, the Appellant might have come to know of the granthi Bhupinder Singh PW6 from her father.

9. Appellant is present in person in the Court. Learned Counsel for the Appellant, after enquiring from the Appellant, stated that Appellant's father had died in the year 1995 i.e. three years before the filing of the suit. Consequently, the Appellant after appearing in the witness box, when she did not know the name of the granthi or the place of his residence, could not have come to know about the name and address of the granthi from her father, who had already died long back. It, thus, turns out that Bhupinder Singh PW6 is a procured witness.

10. It is also worth-mentioning that Plaintiff/Appellant in the year 1999 stated that Defendant/Respondent had already married with Sarbjit Kaur two years ago i.e. in the year 1997. The suit was instituted on 7.5.1998. The Defendant had performed marriage with Sarbjit Kaur prior to the filing of the suit, but in spite thereof, Plaintiff did not mention this fact in the plaint and rather sought injunction to restrain the Defendant from marrying with any other lady. It may be added that Defendant now has three children born out of his wedlock with Sarbjit Kaur.

11. Learned Counsel for the Appellant emphatically referred to certain documents mentioning the Plaintiff to be wife of the Defendant. However, the said documents are based on admission made by the Plaintiff herself, mentioning herself to be wife of the Defendant. Caste Certificate was obtained by the Plaintiff on 4.10.1993 i.e. just 12 days after her alleged marriage with the Defendant. This very circumstance that she obtained Caste Certificate immediately after the alleged marriage, mentioning herself to be wife of the Defendant, would cast suspicion on the alleged marriage. Similarly, Ration Card was also got prepared by the Plaintiff herself, although, ordinarily it should have been got prepared by the Defendant.

12. Learned Counsel for the Appellant also referred to voters' list, for the year 1996, mentioning the Plaintiff to be wife of the Defendant. However, the said document would also be very doubtful and suspicious because according to the Plaintiff's version, she had been turned out of the matrimonial home by the Defendant on 14.8.1995. Therefore, there was no occasion for listing the Plaintiff as voter in the year 1996 in the family of the Defendant.

13. Both the Courts below have arrived at concurrent finding against the Appellant. The said finding is based on appreciation of evidence and supported by cogent reasons. The said finding, therefore, cannot be said to be perverse or illegal warranting interference in second appeal. Lower Appellate Court is the final Court of fact. Fate of the lis depends on finding of fact. No question of law, much less substantial question of law, arises for determination in the second appeal. It cannot be said that the Courts below have mis-read or mis-interpreted the evidence.

14. Consequently, the appeal is devoid of any merit and accordingly dismissed in limine.