

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.316 of 2021

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Durgawati Devi, W/o Sachita Chaudhary @ Sachitanand Yadav, Daughter of Mahesh Chaudhary @ Mahanth Chaudhary, Resident of Village - Harpur, Post - Ram Chandrapur, Police Station- Thawe, District- Gopalganj, at Present Residing at Village and P.O. - Mura, P.S. - Siwan Muffasil, District- Siwan.

... .. Appellant/s

Versus

Sachita Chaudhary @ Sachitanand Yadav, Son of Satan Chaudhary Resident of Village - Resident of Village - Pandit Ke Harpur, Post - Udant Ray Ke Bangara, Police Station- Thawe, District- Gopalganj, At present Residing at Mohalla - Sahadara, P.S. - Sahadara, New Delhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bijay Shankar Choubey, Adv.
Mr. Bijay Prakash Singh, Adv.
For the Respondent/s : Mr. Vijay Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH)

Date : 05-08-2026

The appellant-wife has preferred the instant miscellaneous appeal assailing the judgment & order dated 26.02.2020 and decree dated 18.03.2020 passed by the learned



Principal Judge, Family Court, Siwan in connection with Title Suit No. 01 of 2011 (Registration No. 944 of 2013), whereby the suit filed by the respondent (plaintiff herein) has been allowed, declaring appellant is not a legally wedded wife of the respondent and there is no relationship between the parties as husband and wife.

2. The learned counsel appearing on behalf of the appellant-wife submits that she (defendant in the Title Suit) was married to one Suresh Chaudhary on 22.05.1990, the elder brother of the respondent (plaintiff) and out of the aforesaid wedlock, two children were born namely, Arun Kumar (son) and Puja Kumari (daughter). On 28.11.1997, the first husband of the appellant-wife, namely, Suresh Chaudhary, died. It is also submitted that prior to death of Suresh Chaudhary, the appellant-wife had been leading a happy conjugal life separately and after the death of Suresh Chaudhary, *i.e.*, the first husband, she was married to his younger brother, namely, Sachita Chaudhary, *i.e.*, the respondent herein, in the month of *Baishakh* 2002. Immediately, thereafter, the appellant-wife was started to be tortured at the hands of in-laws including the respondent and compelled by the circumstances, she filed a case of maintenance, bearing Miscellaneous Case No. 56 of



2004 on 14.05.2004 in the Court of the learned Principal Judge, Family Court, Siwan, seeking maintenance, which was allowed *vide* order dated 21.09.2005.

3. The learned counsel appearing on behalf of the appellant-wife also submits that the aforesaid order of maintenance was challenged in the Hon'ble High Court *vide* Civil Revision Case No. 2217 of 2005 by the respondent (plaintiff), but the same was rejected *vide* order dated 18.01.2007, thereby affirming the order of the learned Principal Judge, Family Court, Siwan.

4. It has been submitted on behalf of the appellant-wife that in the wake of dismissal of aforesaid civil revision, the respondent herein preferred a Title Suit, bearing T.S. No. 01 of 2011 in the Court of the learned Principal Judge, Family Court, Siwan for a declaration that there was no marriage between the respondent (plaintiff) and the appellant (defendant) and the appellant was not his legally wedded wife.

5. In support of his contention, the respondent produced and examined altogether eight witnesses (PWs) besides producing seven documents, which were exhibited on his behalf as Exhibits-1 to 7.

6. In response thereto, on behalf of the defendant-



wife (appellant), five witnesses (DWs) were examined and the documents produced on her behalf were marked as Exhibits-A to C.

7. The learned Principal Judge, Family Court, Siwan, having heard the parties, as submitted, without properly appreciating the evidence brought on record and the depositions of the witnesses, allowed T.S. No. 01 of 2011 filed on behalf of the husband and declared that the marriage between the appellant-wife (defendant) and respondent-husband were not solemnized in accordance with Hindu religious rites and rituals and as such, the appellant-wife is not a legally wedded wife of the respondent. The learned counsel also submits that the learned Principal Judge has miserably failed to examine the evidence in its right perspective and his non-appreciation of the evidences in a proper manner, led to miscarriage of justice by declaring a valid marriage between the appellant-wife and the respondent-husband as null & void after many years of the marriage and as such, the appellant-wife has been left in the lurch with nowhere to go and in absence of any maintenance amount, she is unable to maintain herself.

8. At last, it has been submitted on behalf of the



appellant-wife that the judgment & order as also the decree passed by the learned Principal Judge, Family Court, Siwan, referred to above, being untenable in the eyes of law, is fit to be set aside.

9. The learned counsel appearing on behalf of the respondent-husband submits that the learned Principal Judge, Family Court, Siwan, after having properly appreciated the evidence brought on record and analyzing and examining the statements of the witnesses as also the exhibits so brought on record, passed the judgment and decree assailed herein and by no stretch of imagination, it can be held to be untenable in the eyes of law since the appellant-wife has miserably failed to prove solemnization of a legally valid marriage between them and in the absence of any proof with respect to a legal valid marriage, the learned Principal Judge, Family Court, Siwan has been left with no other option, but to declare the so-called marriage between the appellant-wife and the respondent-husband as no marriage and there was no relationship between them like husband and wife.

10. In view of the aforesaid submissions made on behalf of the rival parties, the legal nodus, which crops up for adjudication, can be summed-up as hereunder:-

(i) Whether the appellant-wife is the



legally wedded wife of the respondent?;

(ii) Whether the marriage between the appellant-wife and the respondent-husband was solemnized in accordance with the Hindu religious rites and rituals?; and

(iii) Whether there are evidence and materials available on record to establish the factum of legally valid marriage between the appellant-wife and the respondent-husband?

11. Having perused the judgment and decree under challenge as well as the evidences and the documents brought on record on behalf of the respective parties besides the submissions so advanced on behalf of the parties, we, now, proceed to analyze the evidence brought on record, *vis-a-vis*, the finding so recorded by the learned Principal Judge, Family Court, Siwan.

12. Admittedly, the marriage of Suresh Chaudhary, the elder brother of the respondent herein, was solemnized with Durgawati Devi (appellant herein) in accordance with the Hindu religious rites and rituals on 22.05.1990. Suresh Chaudhary died in the year 1997, leaving behind the appellant/Durgawati Devi with two children, namely, Arun Kumar (son) and Puja Kumari (daughter). The appellant-wife claimed that she is legally married to the respondent after the death of her husband, namely, Suresh



Chaudhary, due to pressure of the elders in the family from both the sides, but the respondent denied having solemnized any marriage with her.

13. In the wake of such denial by the respondent, now, the onus squarely lies on the appellant-wife to prove her marriage with the respondent, who is the younger brother of aforesaid Suresh Chaudhary, in order to claim the status of being legally wedded wife and other relief(s) available to her on account of her being a legally wedded wife.

14. The appellant-wife had been examined as DW-1. She, in her examination-in-chief, states that she is the legally wedded wife of the respondent. Her first marriage was solemnized with the elder brother of the respondent, namely, Suresh Chaudhary, and after his death, with the consent of both the families, she was married to the respondent in accordance with the Hindu religious rites and rituals, whereafter she started living as wife with him. She further states that she has one son and one daughter born out of the wedlock with her first husband, namely, late Suresh Chaudhary and sometimes after marriage with the respondent, she was tortured for non-fulfillment of dowry demand and on 12.12.2002, she was expelled from the matrimonial home and



since then, she has been staying with her parents. She also states the fact of filing a maintenance case in the Court of the learned Principal Judge, Family Court, Siwan, wherefrom maintenance amount of Rs. 1,000/- per month was allowed in her favour. She further states that after throwing her out from the matrimonial home, the respondent solemnized marriage with one Munni Devi, D/o Sakdeo Chaudhary.

15. DW-1, in her cross-examination, admits that after the marriage with first husband, namely, Suresh Chaudhary, she stayed in her *sasural* (matrimonial home) only for two to four months and when she came to know about the death of her first husband while she was at her parents' place, she went to attend the last rites to her *sasural*. In the cross-examination, she could not divulge the date and the year of marriage with Suresh Chaudhary (first husband) and she was also not aware whether the first husband was employed anywhere. She further admits that her first husband died twelve to thirteen days after birth of her daughter and at that time, she was at her *Maayka*. She also states that in the year 2005, she was driven out of her matrimonial home by the respondent, but she could not recall the date and the month. She also states that the respondent has solemnized second



marriage with Munni Devi, who is the daughter of Sakdeo Chaudhary and *suo moto* says that she is the first wife of the respondent. She denied the suggestion with respect to levelling false allegation regarding dowry demand and she also denied the suggestion that the voter ID card etc. is forged besides denying the suggestion that she is the *Bhabhi* to the respondent who is her *Devar* (brother-in-law).

16. Further, Rajvanshi Chaudhari, who has been examined as DW-2, states that he knows both the sides and the appellant and the respondent were married as per the Hindu religious rights and rituals and he attended the ceremony along with the village priest, namely, Bindeshwari Tiwari and the barber, namely, Vindyanchal Thakur and now they are no more. At this stage, he claims that all the villagers were also present at the time of wedding. He, in his cross-examination, admits that though he knows Suresh Chaudhari, but has not seen him and he also did not remember the date, month and year of the marriage. He also admits of not witnessing the *saptapadi* ceremony. He states that Durgawati (appellant) has been residing at her paternal home for the last sixteen years and at last, he denied the suggestion that there was no marriage between the appellant and the respondent.



17. DW-3 is Rameshwar Singh, who admits that Durgawati (appellant) had earlier been married to Suresh Chaudhary before her marriage with the respondent and their marriage was solemnized in accordance with the Hindu religious rights and rituals, but, he, in his cross-examination, admits that he could identify the respondent, but has never met him. He also admits that his evidence is based on personal knowledge and what he has seen and heard in the village.

18. DW-4, namely, Seema Devi, in her examination-in-chief states that the marriage of Durgawati was solemnized in June, 2000 with the respondent in accordance with the Hindu religious rights and rituals and in the said marriage priest, namely, Dineshwar Tiwari and the barber, namely, Vindhyachal Thakur did the rituals. She further states that the appellant's first husband was Suresh Chaudhary and thereafter, she was married to the respondent. She also states that Durgawati (appellant) was thrown out of her matrimonial home on 5.03.2005 and since then, she was staying with her parents. In cross-examination, she feigned ignorance about the marriage of the appellant with Suresh Chaudhary. She further admits that she had not attended the marriage ceremony of the appellant with respondent and she has no documentary proof



of the same. Many things were heard, but she had no personal knowledge and she also denied suggestion that there was no marriage between the appellant and the respondent.

19. At this stage, the witnesses so produced and examined on behalf of the respondent-husband (plaintiff) assumes significance. On behalf of the respondent-husband, altogether eight witnesses were produced and examined before the learned Principal Judge, Family Court, Siwan.

20. PW-1, namely, Satan Chaudhari is the father of the respondent-husband, who, in his examination-in-chief, admits the fact that the appellant was married to his elder son, namely, Suresh Chaudhari on 22.5.1990 and out of the wedlock, one son and one daughter were born and after illness, his elder son, namely, Suresh Chaudhary died on 28.11.1997. He also deposed that since the marriage of the appellant with late Suresh Chaudhary in the year 1990, they started living separately from him within a year of marriage and were earning their livelihood by running a shop. He further states that the family of the appellant put enormous pressure upon him to solemnize marriage of the appellant with his younger son, namely, Suchita Chaudhary, respondent herein, but he did not allow the same, whereafter the appellant/Durgawati filed a



false case against the family and claimed maintenance.

21. This witness (PW-1) also deposed that on 11.03.2005, the marriage of the respondent-husband (plaintiff) was solemnized with one Munni Devi and out of that wedlock, the respondent has four daughters and one son. He vehemently denied solemnization of marriage of the appellant with the respondent.

22. In cross-examination, PW-1 admits that sometime after the marriage, the husband of the appellant, namely, Suresh Chaudhary, started living separately with his family and after a *Panchayti*, he distributed 10 *katthas* of land among his five sons. Further, he also categorically states that in-spite of heavy pressure put on him by the family of the appellant, on account of a big age-gap between the appellant and the respondent, he did not allow the marriage. He also states that the appellant has lodged two to three cases against the respondent and he also states that in cases lodged by the appellant, the respondent was sent to jail, once.

23. PW-2, namely, Chandeshwar Prasad is the maternal uncle (*Mama*) of the respondent and he categorically states in his-chief that Durgawati (appellant) was widow of late Suresh Chaudhary and she was never married to the



respondent and they are, in fact, *Devar* (brother-in-law) and *Bhojayee* (Bhabhi). In the cross-examination, this witness also supports that the appellant's husband was late Suresh Chaudhary and she was never married to the respondent and the relationship in between them is of *Devar* (brother-in-law) and *Bhojayee* (Bhabhi) and, in fact, in cross-examination, he also denied the factum of marriage between the appellant and the respondent.

24. PW-3, namely, Shree Bhagwan Bhagat, also states in his examination-in-chief that the appellant was married to Suresh Chaudhary in the year 1990 and in the cross-examination, he admits that he did not witness the marriage ceremony and he also admits that there was no marriage between the appellant and the respondent and, in fact, the appellant is the widow of late Suresh Chaudhary and stating the incorrect facts, the case has been instituted against the respondent. Even, in cross-examination, this witness fully supports the fact that there was no marriage between the appellant and the respondent; in fact, they are *Devar* (brother-in-law) and *Bhojayee* (Bhabhi).

25. PW-4, namely, Bhikham Chaudhary, in his examination-in-chief, states that the appellant was married to



late Suresh Chaudhary in the year 1990 and after two years of the marriage, they started living separately. He also admits that after the death of her husband, Suresh Chaudhary, the appellant started living with her parents. This witness also denied the factum of marriage between the appellant and the respondent. Even, in cross-examination, he categorically states that Durgawati (appellant) was never married to the respondent and, in fact, at times, he has questioned the father of the appellant, who is his brother-in-law (*bahnnoi*), as to how is she surviving. He also denied knowledge of having any kind of marital relationship between the appellant and the respondent and that he has never witnessed any marriage ceremony between them.

26. PW-5, namely, Shree Dhyan Chaudhary, in his examination-in-chief, admits that the appellant was the wife of Suresh Chaudhary and after his death, she was staying with her parents and the appellant has lodged a false case against the respondent. The relationship between them is of *Devar* (brother-in-law) and *Bhojayee* (Bhabhi). PW-5, in his cross-examination, admits that the appellant was married to late Suresh Chaudhary, who died in the year 1997. He also admits that the respondent is also married, but he did not know the



name of his wife. However, he states that the marriage of the respondent has been solemnized at Meera Tola in the district of Gopalganj.

27. PW-6, namely, Raju Mahto, in his examination-in-chief, reiterates the aforesaid statement of PW-5. Even, in his cross-examination, he categorically states that the respondent has never been married to the appellant and he also supports the factum of Durgawati (appellant) staying with her parents since the death of her husband, *i.e.*, late Suresh Chaudhary.

28. PW-7 (Sachita Chaudhary) is the respondent himself and the appellant is his widow *Bhabhi*, who was married to his elder brother, namely, Suresh Chaudhary on 22.05.1990. He also states that an enormous pressure was put upon him to marry the appellant, but his father refused and thereafter, the appellant filed many cases implicating the entire family. He also states that his marriage was solemnized with Munni Devi on 11.03.2005, whereafter another criminal case was lodged by the appellant against him.

29. In the cross-examination, PW-7 categorically states that the cases lodged against him by the appellant are false and fabricated. He also admits that the appellant, after



the marriage with his elder brother, started living separately with her family and he denied any suggestion with respect to the factum of marriage between him and the appellant.

30. PW-8 is a Clerk attached with an Advocate in Civil Court, Siwan. He supports the factum of getting the compromise petition between the appellant and the respondent typed.

31. In the aforesaid backdrop, the essentials of legally valid marriage assumes relevance, which needs to be discussed in order to properly appreciate the case at hand to adjudicate upon the issue with respect to the validity of marriage between the appellant and the respondent.

32. Thus, the primordial issue is whether the marriage between the parties, *i.e.*, the appellant-wife and the respondent, was solemnized in accordance with the Hindu religious rites and rituals?

33. Section 7 of the Hindu Marriage Act, 1955 (*in short the Act of 1955*) lays down ceremonies to be performed in a Hindu marriage, which reads as hereunder:-

“7. Ceremonies for a Hindu marriage.-(1) *A Hindu marriage may be solemnised in accordance with the customary rites and ceremonies of either party thereto.*

(2) *Where such rites and ceremonies include the Saptapadi (that is, the taking of*



seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.”

34. The word “solemnised” means to perform the marriage with ceremonies in proper form. Unless and until the marriage is performed with the appropriate ceremonies and in due form, it cannot be said to be “solemnised”. Further, subsection (2) of Section 7 of the Act of 1955 stipulates that where such rites and ceremonies include the *saptapadi*, i.e., the taking of seven steps/vows by a bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step is taken. Therefore, requisite ceremonies for the solemnisation of the Hindu marriage must be in accordance with the applicable customs and usage and where *saptapadi* has been adopted, the marriage becomes complete and binding when the seventh step is taken.

35. Whenever a Hindu marriage is not performed in accordance with the applicable rites or ceremonies, such a *saptapadi* when included, the marriage will not be construed under Hindu marriage. In other words, for a valid marriage under the Act, the requisite ceremonies have to be performed and there must be proof of performance of the said ceremony when an issue/controversy arise. Unless the parties have



undergone such ceremony, there would be no Hindu marriage according to Section 7 of the Act of 1955.

36. The Hon'ble Supreme Court in the case of ***Dolly Rani vs Manish Kumar Chanchal***, reported in (2025) 2 SCC 587 held as follows:-

“The Hindu marriage is a sacrament and has a sacred character. In the context of “saptapadi” in a Hindu marriage, according to Rig Veda, after completing the seventh step (saptapadi) the bridegroom says to his bride, “With seven steps we have become friends (sakha). May I attain to friendship with thee; may I not be separated from thy friendship”. A wife is considered to be half of oneself (ardhangini) but to be accepted with an identity of her own and to be a co-equal partner in the marriage. There is nothing like a “better-half” in a marriage but the spouses are equal halves in a marriage. In Hindu Law, as already noted, marriage is a sacrament or a samskara. It is the foundation for a new family”,

37. Thus, a Hindu marriage is a “samskara” and a sacrament, which has to be accorded its status as an institution of great value in the Indian society. It is a solemn foundational event celebrated so as to establish a relationship between a man and a woman who acquire the status of a husband and wife for an evolving family in future which is a basis unit of Indian Society. The solemn object being a Hindu marriage facilitates procreation, consolidates the unit of family and



solidifies the spirit of fraternity within various communities. After all, a marriage is sacred for it provides a lifelong, dignity-affirming, equal consensual and health union of two individuals, wherein the customary ceremonies, with all its attendant geographical and cultural variations is said to purify and transform the spiritual being of an individual.

38. The aforesaid facts, being solemn goal, object and purpose have duly been acknowledged by the Hindu Marriage Act, 1955, which seeks to inculcate material and spiritual, both, aspects in the life of a married couple. In other words, marriage is a cradle from which emanates a family, which leads to creation of a society and the same, in turn, leads to formation of a State, which, ultimately, leads to the concept of a Nation. Thus, the family, being the nucleus, is the very foundation of the concept of a Nation as a whole.

39. On the touchstone of aforesaid parameters where the essentials of a legal valid Hindu marriage have succinctly been enunciated and delineated, the facts and evidence of the present case would be examined and appreciated in order to come to a conclusive finding with respect to validity of factum of marriage between the parties.

40. Durgawati (appellant) did not disclose the



date, place and year of her marriage with the respondent. From her deposition, it is evident that in between her marriage with late Suresh Chaudhari and his death, she had primarily all along at her parents' place and very briefly staying at her *Sasural* only for two to four months in between. Even at the time of death of her first husband, namely, late Suresh Chaudhary, she was in her *Maayka* where she gave birth to a daughter and none from her *Sasural* side came after the birth of the child. The husband of the appellant died twelve to thirteen days after the birth of the child.

41. All these facts, indisputably, evince that the relationship between Durgawati (appellant) with her in-laws was not cordial at all. All the witnesses so produced and examined on behalf of Durgawati (appellant) have not stated that when her marriage was solemnized with the respondent and whether the marriage was performed in their presence. This fact has also not been supported by any of the witnesses. The witnesses have also not stated about "*saptapadi*" and "*sindurdaan*", which are essentials of a Hindu marriage nor has this been claimed by the appellant in her written statement. Moreover, the place where such marriage of the appellant with the respondent was solemnized has also not been stated either



by the appellant or by the witnesses produced and examined on her behalf and this fact has also not even been mentioned in the Title Suit filed on behalf of the appellant.

42. There was material contradiction in the statements of the witnesses with respect to the name of priest who performed the so called/alleged second marriage of the appellant with the respondent as one of the witnesses, namely, DW-2 named the priest as Bindeshwari Tiwari, whereas DW-4 disclosed the name of priest as Dineshwar Tiwari, a totally contradictory statement, which is unworthy of being given any credence to.

43. The appellant, in her entire deposition, has not disclosed the date and place of marriage and she has also not stated about the rituals which was performed at the time of marriage. She has not even disclosed the name of the priest and the barbar, who discharged their duties in such a marriage ceremony, wherein the rituals are of great importance at the time of solemnization of the marriage. None of the witnesses have disclosed anything about the religious rites and rituals performed during solemnization of the alleged marriage of the appellant with the respondent. None have stated about “saptapadi & sindurdaan” etc., which is one of the chief/vital



essentials of a valid Hindu marriage.

44. In support of the claim of a valid marriage between the appellant and the respondent, certain exhibits have been produced, such as Exhibit-A and A/1, which are the orders of maintenance passed by the learned Principal Judge, Family Court, Siwan, *i.e.*, the proceeding where the Court cannot decide whether the marriage between the parties is legal or not. The maintenance case is the proceeding instituted under Section 125 of the Code of Criminal Procedure, 1973, wherein the Court simply decide the issue of maintenance for the purposes of maintaining the so-called estranged wife, but during such proceeding, the Court never decides the issue of validity of marriage.

45. The documents which were produced on behalf of the appellant-wife are the certified copies of the voter-list of the 2004 and the order dated 18.01.2007 passed by this Court in Civil Revision No. 2217 of 2005, which are marked as Exhibits-B and C respectively. On the strength of these documents, the appellant has sought to prove the legal valid marriage between her and the respondent.

46. Certain documents have also been produced and exhibited on behalf of the respondent (plaintiff), which



were the certified copies of the voter-list of different years. The aforesaid two certified copies of the voter-list respectively marked as Exhibits-B and 2. Both are of different years, in which, in the voter-list of year 2004 (Ext.-B), the appellant was shown to be the wife of the respondent, whereas in Ext.-2, which is the voter-list of year 2009, wherein the appellant has been shown as the wife of Suresh Chaudhary. Here, it appears that one voter-list is at variance with another one.

47. Even, merely on the basis of names/entries made in the voter-list, one cannot claim validity with respect to solemnization of marriage between the parties. Entries made in the voter-list is not a conclusive proof with respect to any kind of valid or subsisting marriage, save and except the oral evidence, no other corroborative piece of evidence, which could indisputably evince the factum of marriage being solemnized between the appellant and the respondent in accordance with Hindu religious rights and rituals, have not been brought on record nor have been produced on behalf of the appellant in order to substantiate, support and buttress her claim of having a legal and valid marriage with the respondent.

48. On the other hand, certain documents



produced on behalf of the respondent (plaintiff) in course of trial before the learned Principal Judge, Family Court, Siwan could be enumerated hereinbelow:-

(i) Ext.-1 : Certified copy of the voter-list;

(ii) Ext.-2 : True copy of the application (ittalayee) dated 04.02.2002, Satan Chaudhary Vs. Durgawati Devi;

(iii) Ext.-3 : True copy of the death certificate of Suresh Chaudhary;

(iv) Ext.-4 : True copy of pass-book in the name of Durgawati Devi;

(v) Ext.-5 to 5/B : True copy of voter ID card of Suchita Chaudhary issued by the Election Commission;

(vi) Ext.-6 : True copy of notice regarding re-payment of loan issued by the Regional Gramin (Rural) Bank; and

(vii) Ext.-7 : Certified copy of the order dated 21.09.2005 in connection with Misc. Case No. 56 of 2004/413 of 2005, pending in the Court of learned Family Court, Siwan.

49. These documents have been filed and exhibited in order to prove one thing that the appellant was the legally wedded wife of Suresh Chaudhary, who died in the year 1997 and these documents are the corroborative piece of evidence, which, unflinchingly and indisputably, shows the relationship between the appellant and Suresh Chaudhary as husband and wife. These documents prove that the appellant was the legally wedded wife of Suresh Chaudhary, who died



and, thereafter, no other documents have been brought on record in order to substantiate and support the claim of the appellant, which could contradict the stand of the respondent (plaintiff) that she was not the wife rather the relationship between them is only of *Devar* (brother-in-law) and *Bhojayee* (Bhabhi).

50. Besides proving the marriage being in consonance with the Hindu religious rights and rituals as mandated in Section 7 of the Act of 1955, there is other way to prove the validity of marriage between a man and woman, *i.e.*, by getting the marriage registered in terms of the provisions as contained in Special Marriage Act, 1954 (*in short the Act of 1954*) whereby they may acquire the status of being a husband and wife. The aforesaid Act of 1954 is not restricted to Hindus, but any man and woman irrespective of their range, caste and creed of being a husband and wife under the provisions of the Act of 1954. But here, a caution is to be kept in mind that in terms of the provisions as contained in Section 8 of the Act of 1955, which provides for registration of Hindu marriages, it is open for two Hindus marrying under the provisions of the Act to have their marriage registered, provided they fulfill the conditions laid down therein regarding performance of



requisite ceremony. It is only when the marriage solemnized in accordance with Section 7 of the Act of 1955, there could be marriage registered under Section 8 of the Act of 1955, but if there has been no marriage in consonance with the provisions as mandated in Section 7 of the Act of 1955, the registration would not confer legitimacy to the marriage.

51. In the case at hand, if the parties have not produced any kind of marriage registration certificate, which would, otherwise, be a document in support of the claim of subsisting valid legal marriage between the parties, but here one fact still comes into play is that of marriage should have been performed in consonance with the provisions with respect to the ceremonies and customs as mandated under Section 7 of the Act of 1955. In the case at hand, no such proof has been coming forward, which could be of any help to the appellant-wife in order to demolish the findings so recorded by the learned Principal Judge, Family Court, Siwan.

52. After having considered the case in view of the entire gamut of evidence and the documents so brought on record, we are of the considered view that the appellant herein (wife) has not been able to prove the factum of her marriage with the respondent (plaintiff) in accordance with the Hindu



religious rights and rituals and in absence of any clinching evidence, which could prove the existence of a valid matrimonial relationship between the two, the appellant-wife has not made out a case for interfering with the judgment & order dated 26.02.2020 and decree dated 18.03.2020 passed by the learned Principal Judge, Family Court, Siwan in connection with Title Suit No. 01 of 2011 (Registration No. 944 of 2013).

53. Thus, we answer the legal issues (nodus) as formulated hereinabove in the following terms:-

(i) Whether the appellant-wife is the legally wedded wife of the respondent - **Negative**

(ii) Whether the marriage between the appellant-wife and the respondent-husband was solemnized in accordance with the Hindu religious rites and rituals - **Negative**

(iii) Whether there are evidence and materials available on record to establish the factum of legally valid marriage between the appellant-wife and the respondent-husband - **Negative**

54. The aforesaid three issues are, accordingly, answered in negative terms.

55. The instant miscellaneous appeal is, accordingly, dismissed.

56. There shall be, however, no order as to cost.



57. The interlocutory application(s), if any, also stands disposed off accordingly.

(Rana Vikram Singh, J)

Bibek Chaudhuri, J : I agree

(Bibek Chaudhuri, J)

saurabh.kr/Praveen-II

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