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**(2019) 07 JH CK 0020**  
**In the Jharkhand High Court**  
**Case No : First Appeal No. 194 Of 2018**

Chimni

APPELLANT

Vs

Balo Devi And Ors

RESPONDENT

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**Date of Decision :** 15-07-2019

**Acts Referred:**

**Citation :** (2019) 07 JH CK 0020

**Hon'ble Judges :** H.C. Mishra, J;Deepak Roshan, J

**Bench :** Division Bench

**Advocate :** Rajesh Kr. Mahtha, R. Mishra, S. Mahto

**Final Decision :** Dismissed

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## Judgement

1. This interlocutory application has been filed for condonation of delay of 45 days in filing the appeal.

In view of the statements made in the Interlocutory Application, the delay in filing the appeal is condoned.

The aforesaid interlocutory application is allowed.

F.A. No. 194 of 2018

Heard learned counsel for the defendant appellant and learned counsel for the plaintiff respondent.

2. This appeal is directed against the impugned Judgement and Decree dated 28.03.2018, passed by the learned Principal Judge, Family Court, Bokaro, in Original Suit No. 39 of 2012, whereby, the suit filed by the plaintiff respondent, claiming herself to be the wife of the deceased Wakil Mahto, who was an employee in C.C.L., and had accidentally died on 18. 9.2008, was decreed on contest.

3. The suit had been filed by the plaintiff respondent Balo Devi, for a declaration

that she is the legally wedded wife of the deceased Wakil Mahto, due to the fact that when she made application for her appointment on compassionate ground in the C.C.L., after the accidental death of her husband, she was informed by the C.C.L. authorities that another application had also been received by them by one Chimni Devi, claiming herself to be the wife of the deceased employee. In the plaint, the plaintiff stated that said Wakil Mahto was originally married with one Panchu Devi, who died leaving behind two daughters Pinki Kumari and Rinki Kumari. After the death of his first wife, Wakil Mahto married the plaintiff as per Hindu rites, and their marriage was also registered on 15.09.2008 before the Marriage Registration Officer at Tenughat, bearing registration No. 53 of 2008. She has stated that her husband died accidentally due to fall in a well, for which U.D. Case No. 04 of 2008 was also instituted on the basis of the fardbeyan of the plaintiff. It was only when she gave the application for her appointment on compassionate ground, she was informed that another application was given by the defendant Chimni Devi also, claiming herself to be the legally wedded wife of Late Wakil Mahto. In the plaint she has stated that Chimny Devi is a fraudulent lady, and she had falsely claimed to be the legally wedded wife of Late Wakil Mahto, only in order to get the job of C.C.L., on compassionate grounds, by fraudulent means. Hence the suit.

4. Upon notice, the defendant appeared in the Court below, and filed her written statement, according to which, she claimed to be the legally wedded wife of Late Wakil Mahto, and admitted that her husband had died due to fall into the well. She also claimed that both the daughters of Wakil Mahto were being looked after by her in her matrimonial home, one of them was later married, and the other daughter was mentally ill, and was living with her. She claimed to be entitled to all the service benefits of Late Wakil Mahto, including the job in C.C.L., on compassionate ground.

5. The impugned Judgement shows that the evidences were adduced on behalf of both the sides, but there were contradictory evidences adduced in the Court below on behalf of the defendant. The Court below, accordingly, decreed the suit by the impugned Judgement and Decree dated 28.03.2018, holding the plaintiff to be the legally wedded wife of Late Wakil Mahto, and rejecting the claim of the defendant. Aggrieved thereby, the present appeal has been filed by the defendant appellant.

6. Learned counsel for the appellant has submitted that the impugned Judgement and Decree passed by the Trial Court below, cannot be sustained in the eyes of law, inasmuch as, the appellant had adduced cogent evidences in support of her claim that she was the legally wedded wife of the Late

Wakil Mahto. Learned counsel submitted that the plaintiff respondent was only an impostor who had filed the suit, claiming to be the wife of Late

Wakil Mahto, only in order to grab the job of C.C.L., by fraudulent means. Learned counsel accordingly, submitted that the impugned Judgement and

Decree cannot be sustained in the eyes of law.

7. Learned counsel for the plaintiff respondent, on the other hand, has opposed the prayer, submitting that the suit has been rightly decreed on the

basis of the evidence on record.

8. We have gone through the evidences adduced by the respective parties in the Trial Court, discussed in the impugned Judgement, with the help of

learned counsels for both the sides. Apart from the witnesses examined on behalf of the plaintiff, who fully supported her case, she had also adduced

documentary evidences in support of her case, and had proved several documents, including her Marriage Registration Certificate, the fardbeyan and

other documents of the U.D. Case lodged by her after the death of her husband, as also a voter list of the year 2009 in which Chimni Devi was shown

as the wife of one Arjun Mahto.

9. The defendant also examined some witnesses, including her family members, who supported her case of marriage with Late Wakil Mahto. She had

also adduced documentary evidences in support of her case, but no marriage certificate was proved by her, nor any document relating to her alleged

marriage with Wakil Mahto was proved by her, except an invitation card of her marriage with Wakil Mahto.

10. It is not necessary to discuss each and every piece of evidence in detail. Suffice would be to point out the materials which weighed with the Trial

Court to decree the suit in favour of the plaintiff, and rejecting the claim of the defendant. Though the voter list proved by the plaintiff, showing the

defendant to be wife of Arjun Mahto was disputed by the defendant, but one of the defendant's witnesses, viz., D.W.-2 Vijay Thakur had admitted

that he knew Arjun Mahto of village Rikwa, who was still alive. The Trial Court has doubted the marriage of the defendant with Wakil Mahto in view

of the fact that she claimed to have married Wakil Mahto in the year 1997, but in the voter list of 2009, she was shown as the wife of Arjun Mahto, who was still alive. The other pieces of evidence, on which, the claim of the appellant has been rejected, are that the defendant had proved her marriage invitation card to show that she was married with Wakil Mahto, but the Court has given the finding that the marriage card appeared to be new, and got printed for the purpose of contesting the case. The Trial Court has also noted from the evidence of the defendant's witnesses, namely, the defendant's own sister Bilaso Devi, who had stated clearly that no card was printed at the time of marriage of Chimni Devi. Even D.W.-1 Anant Dev Prasad has also admitted in his cross-examination that he had not seen any marriage card of the defendant. D.W.-2 Vijay Thakur claimed to be the person, who had performed the marriage between Chimini Devi and Wakil Mahto, but in his cross-examination, he failed to disclose the name of the father of Wakil Mahto. He has also stated that he was not knowing the mother of Wakil Mahto, nor he was knowing the two daughters of Wakil Mahto. The defendant Chimni Devi had also examined her own brother as D.W.-3, who failed to disclose as to who had performed the marriage between Chimini Devi and Wakil Mahto. To cap all, Pinki Kumari, the daughter of the deceased Wakil Mahto had been examined in the Court below, who clearly stated that the plaintiff Balo Devi is the second wife of her father Wakil Mahto, after the death of her mother and she also stated that she or her sister were never looked after by Chimini Devi.

11. On the other hand, the plaintiff had been able to prove her marriage with Walil Mahto, on the basis of the evidence adduced by her, including her marriage certificate.

12. In view of these evidences on record, the Trial Court below held the plaintiff to be the legally wedded wife of Wakil Mahto, after the death of his first wife, and decreed the suit, rejecting the claim of the defendant. We do not see any illegality in the findings arrived at by the Trial Court below on the basis of the evidence on record.

13. For the foregoing reasons, we do not find any illegality in the impugned Judgement and Decree dated 28.03.2018, passed by the learned Principal Judge, Family Court, Bokaro, in Original Suit No. 39 of 2012, decreeing the suit on contest.

14. There is no merit in this appeal and the same is accordingly, dismissed with costs throughout.