



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 1st OF JULY, 2026

WRIT APPEAL No. 1624 of 2026

RAM KRIPAL SINGH

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Mr. Mahabir Prasad Sharma - Advocate for appellant.

Mr. Ankur Mody - A.A.G. for respondents/State.

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JUDGMENT

Per. Justice Gurpal Singh Ahluwalia

This intra-court appeal has been filed under Section 2 (1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005 against the order dated 29.04.2026 passed by learned Single Judge in Writ Petition No. 6632/2024.

2. Appellant had filed the writ petition seeking the following reliefs:

"i. That, the respondent may please be directed to Grant terminal benefit including family pension provided in the Madhya Pradesh Civil Service (Pension) Rules, 1976 to the petitioner.

ii. Please to issue writ of mandamus to the respondents directing him to pay all financial benefits.

iii. That, the respondents further may please be directed to pay the amount of benefits after adding interest @ 12% overall these benefits for delay of payment paid to the petitioner.

iv. That, the cost of the petition, may kindly be allowed.

v. That any other order or direction doing justice in the matter in favour of the petitioner may also be please to pass."



3. It was the case of appellant that his wife late Smt. Suman Devi was permanent employee on the post of *Chowkidar* in the Department of Tribal and Welfare. During the course of employment, she passed away on 17.08.2022. On account of illegal and arbitrary actions on the part of respondents, the family pension and other benefits payable to appellant have not been paid despite of repeated and rigorous efforts.

4. Respondents filed their written statement. It was the case of respondents that the Court of Additional Collector, Gwalior, by order dated 29.12.2022, had issued a certificate regarding the legal heirs of the deceased employee Smt. Suman according to which Kok Singh Kushwaha, being the husband of Smt. Suman Bai, and Anil, Veer Singh, and Renu, being the children of Smt. Suman Bai from Kok Singh, are the legal representatives. Even otherwise, in the service book, Kok Singh (husband), Renu (daughter), Anil (son) and Shankar Lal (father) are mentioned as the legal heirs. Thus, in nutshell, it was the case of respondents that appellant Ram Kripal Singh is not the husband of late Smt. Suman Bai, and thus, he is not entitled for any dues.

5. The learned Single Judge, after hearing both the parties and considering the material available on record, dismissed the writ petition by holding that appellant has failed to prove that he was the husband of late Smt. Suman Devi. However, liberty was also granted to the appellant to initiate appropriate proceedings to establish his relationship as husband of late Smt. Suman Devi and then raise his claim before the competent authority.



6. Challenging the order passed by learned Single Judge, it is submitted by counsel for appellant that respondent had misled the learned Single Judge as they did not file the entire copy of the service book. It is further submitted that appellant has filed I.A. No. 6650/2026 under Order 41 Rule 27 CPC for taking additional documents on record. It is submitted that it is true that Kok Singh was the first husband of late Smt. Suman, but in the month of November 1998, divorce of Suman had taken place with Kok Singh, and thereafter, late Smt. Suman performed court marriage with the appellant on 11.09.2000. Even in the death certificate of Smt. Suman, name of the husband was mentioned as Ram Kripal Singh, (appellant). It is further submitted that an arms license was also issued in the name of Smt. Suman in which name of her husband was mentioned as Ram Kripal Singh. It is further submitted that Smt. Suman had also given an affidavit for change of nominee in which she had disclosed the name of her husband as Ram Kripal. A certificate by the Collector was also issued to the effect that Smt. Suman, wife of Ram Kripal Singh, is working on the post of *Chowkidar* and her work is satisfactory. Even in the GPF account, name of the husband of Smt. Suman is mentioned as Ram Kripal.

7 . *Per contra*, appeal is vehemently opposed by counsel for respondents. It is submitted that in compliance of order dated 29.05.2026, original service book along with the service record is available for perusal by this Court.

8. Heard learned counsel for parties.

9. From the service book, it is clear that the name of husband of Smt.



Suman Devi has been mentioned as Kok Singh. There is no interpolation or overwriting. Even the relevant copy of the service book was filed by respondents in their return filed in the writ petition. Original service book was also shown to the counsel for appellant as well as appellant, who is also present in the Court. From the service record, it appears that an agreement to sell was entered into between Smt. Sushila and Smt. Suman (deceased employee) on 07.02.2003 in respect of one plot situated in *Daliya wala Mohalla*, Lashkar, Gwalior, admeasuring 1500 sq. ft. In that affidavit, Smt. Suman had disclosed her husband's name as Kok Singh. Furthermore, the service record also contains a letter dated 27.05.2004, written by District Organizer, *Adim Jati Kalyan*, Gwalior, which was addressed to Suman Bai. In that letter, an explanation was called from Smt. Suman Bai that in her service book, name of her husband is mentioned as Kok Singh, whereas in her applications dated 18.05.2004 and 28.05.2004, which were made for grant of leave, name of her husband was mentioned as Ram Kripal. Accordingly, she was called upon to clarify the things so that a decision on the application for grant of leave can be considered. A reply was filed by Smt. Suman Devi on 03.06.2004 in which she had specifically stated that the name of her husband is Kok Singh Kushwah. It was specifically mentioned that neither Ram Kripal Singh is her husband nor she has any relation with him. The relevant part of the reply given by Suman Bai to the letter dated 27.05.2004 reads as under:

"विषयान्तर्गत एवं सन्दर्भित पत्र के पालन में निवेदन है कि मेरे पति का नाम श्री कोक सिंह कुशवाह है | रामकृपाल सिंह न तो मेरे पति है और ना ही उनसे मेरा कोई सम्बन्ध है |"



10. A specific question was put to the counsel for State as to whether any application was made by Smt. Suman Bai for change of nominee or not? After going through the service record, it was submitted by counsel for State that no application was ever filed by Smt. Suman Bai for change of nominee.

11. The service book also contains the marriage card of Anil Kushwah, who is the son of Smt. Suman Bai. Marriage of Anil Kushwah was performed in the month of June 2006, and in that marriage card also, name of the husband of Smt. Suman Bai was mentioned as Kok Singh Kushwah.

12. Thus, it is clear that even in the declarations, which were made by Smt. Suman Bai, she had specifically disclosed that the name of her husband is Kok Singh and not Ram Kripal Singh / appellant.

13. The service record also contains a letter dated 30.09.2022 issued by Assistant Commissioner (Jan Jatiya Karya Vibhag) Gwalior, which was addressed to Kok Singh Kushwah and Ram Kripal / appellant. In this letter, it was mentioned that Ram Kripal had also claimed himself to be the husband of Smt. Suman Bai, and accordingly, both of them were directed to obtain the succession certificate.

14. It is fairly conceded by Ram Kripal, who is present in person, as well as his counsel, that appellant has not initiated any succession proceedings.

15. There is another aspect of the matter which cannot be lost sight of I.A. No. 6650/2026 has been filed under Order 41 Rule 27 CPC for taking additional documents on record. Along with this application, a photocopy of a notarized agreement purportedly executed by Kok Singh and Suman Bai



has been placed on record. According to this notarized agreement, Suman Bai and Kok Singh had taken divorce. Appellant has also filed a photocopy of an affidavit executed by Suman Bai in which she had claimed that earlier she was married to Kok Singh, but by a notarized agreement, the marital relationship with Kok Singh were broken on 27.11.1998, and now she has married Ram Kripal. The service book of Smt. Suman Bai also contains an application filed by the appellant, which was addressed to the Commissioner. This application is dated 11.11.2022. The opening lines of this application is that the appellant had performed marriage with the deceased employee Smt. Suman Bai on 14.07.1999 by executing an agreement of marriage. The relevant lines are as under:

"उपरोक्त विषय में निवेदन है कि प्रार्थी की पत्नी सुमनबाई से वर्ष 14/07/1999 को विधिवत विवाह अनुबंध पत्र के माध्यम से हुई थी। जिसकी छायाप्रति पी-1 से पी-4 संलग्न है। तबसे सुमनबाई प्रार्थी के साथ ही प्रार्थी के घर पर ही रह रही थी।"

16. A copy of the notarized marriage agreement was also annexed along with this application. Copy of the marriage agreement, which is part of the service record, reads as under:

"॥ श्री ॥

लिखितम विवाह अनुबंध-पत्र (घरीचा) स्टाम्प कीमती 50/- रु. पेज-4

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रामकृपालसिंह पुत्र श्री रघुनन्दनसिंह आयु 32 साल,
व्यवसाय शासकीय नौकरी रेल्वे, निवासी रेल्वे कॉलोनी
पलवल फरीदाबाद (हरियाणा), हाल निवासी न्यू रेल्वे
कॉलोनी क्वाटर नं0-100 ब्लॉक नं0-4 डबल स्टोरी ग्वालियर।
--- पक्षकार क्रमांक-1

सुमन कुशवाहा पुत्री श्रीशंकरलाल कुशवाह आयु करीब 30 साल,
व्यवसाय शासकीय नौकरी, निवासी डलिया बाला मोहल्ला
लशकर, ग्वालियर म.प्र.।
--- पक्षकार क्रमांक-2

हो कि हम पक्षकार क्रमांक-1 व 2 के मध्य विवाह बावत निम्न लिखित अनुबंध हुआ है:-



1- यहकि, पक्षकार क्रमांक-1 स्व सरकारी नौकरी में नियुक्त रेल्वे विभाग में कार्यरत है। व अपना भला बुरा सोचने एवं समझने में पूर्ण रूप से सक्षम है। तथा पक्षकार क्रमांक-2 भी स्वस्थ होकर आदिवासी विभाग में कार्यरत है, जो अपना भला बुरा सोचने में पूर्ण रूप से सक्षम है, तथा दोनों पक्षकार पूर्ण रूप से बालिग होकर अपने भविष्य के बारे में निर्णय लेने के लिए स्वतंत्र हैं।

(Page No. 2 of the marriage agreement is not available in the record)

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तथा उनकी चल व अचल संपत्ति के वैध वारिस होंगे तथा उनको वह समस्त हक व अधिकार प्राप्त होंगे जो एक संतान को अपने माता पिता से प्राप्त होते हैं।

6- यहकि, इस विवाह में किसी भी पक्षकार द्वारा कोई रकम अथवा दान दहेज नहीं दिया गया है, दान दहेज का बहिष्कार किया गया है।

7- यहकि, पक्षकारों के मध्य बहिन भाई का रिश्ता नहीं है। अर्थात् विवाह करने में कोई वैधानिक रुकावट नहीं है।

8- यहकि, पक्षकार क्रमांक-1 व 2 के मध्य भविष्य में किसी प्रकार का विवाद उत्पन्न होने की दशा में आपस में बैठकर उसका निपटारा आपसी सहमति के द्वारा किया जावेगा। निपटारा न होने की दशा में न्यायालय द्वारा निपटारा कराने के लिए दोनों पक्षकार स्वतंत्र होंगे इसमें किसी भी पक्षकार को कोई आपत्ति नहीं होगी।

9- यहकि, हम दोनों पक्षकारों के समाज में इस तरह के विवाह अनुबन्ध- (घरीचा) करने की प्रथा प्रचलित है, इसकारण हम पक्षकारों ने आर्य समाज के सिद्धान्तों में विश्वास रखते हुए यह विवाह आपस में संपन्न किया है।

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10- यहकि, पक्षकार क्रमांक-1 आज दिनांक से पक्षकार क्रमांक-2 के खाने, पीने, रहने, कपड़े आदि की समुचित व्यवस्था करेगा तथा भविष्य में उसको किसी प्रकार से मारपीट या प्रताड़ित नहीं करेगा तथा समस्त पति कर्तव्यों का निष्ठा पूर्वक पालन करेगा।

अतः यह लिखितम विवाह अनुबन्ध-पत्र (घरीचा) हम पक्षकारों ने आपसी सहमति से बिना किसी धौंस दबाव व नशे पत्ते के सोच समझकर, सुनकर, पढ़कर, रूबरू गवाहन संपादित करदिया कि प्रमाण रहे व समय पर कामआवे।

दिनांक : 14-07-1999

हस्ताक्षर पक्षकार क्रं०-1

हस्ताक्षर पक्षकार क्रं०-2 "

17. Accordingly, adjudication of the following circumstances is required:

(i) whether the marital ties of Kok Singh and Smt. Suman



Bai can be severed by executing a notarized divorce paper;

(ii) whether a marriage by contract can be performed under the Hindu law; and

(iii) whether a notarized marriage agreement can be said to be a valid marriage.

18. Section 5 of the Hindu Marriage Act reads as under:

"5. Conditions for a Hindu marriage.—A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:

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- (i) neither party has a spouse living at the time of the marriage;
 - (ii) at the time of the marriage, neither party—
 - (a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or
 - (b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
 - (c) has been subject to recurrent attacks of insanity,
 - (iii) the bridegroom has completed the age of twenty-one years and the bride, the age of eighteen years at the time of the marriage;
 - (iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;
 - (v) the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two;"

Therefore, it is clear that none of the parties to the marriage should have a living spouse at the time of marriage.

19. Undisputedly, Kok Singh was the first husband of late Smt. Suman. No petition under Section 13 of the Hindu Marriage Act was ever filed by the parties. No decree, either under Section 13 or Section 13A of the Hindu Marriage Act, was obtained by any of the parties for severing the marital ties of Kok Singh with Smt. Suman Bai. Divorce cannot take place



merely on execution of a notarized agreement of divorce.

20. Under these circumstances, it is clear that marital ties of Smt. Suman Bai with Kok Singh was never severed/broken, and thus, the first marriage of Smt. Suman Bai continued to subsist in absence of any decree for divorce.

21. The next question for consideration is as to whether the marriage of Suman Bai with Ram Kripal can be performed by executing an agreement of marriage or not?

22. Although it was submitted by appellant himself that he had performed court marriage with late Smt. Suman Bai, but it is clear from the agreement of marriage filed by appellant himself before the Commissioner, Gwalior Division, Gwalior, which is a part of the service record of Smt. Suman Bai, that no court marriage of the appellant had taken place with Smt. Suman Bai. Although it is mentioned in the agreement of marriage that there is a custom to perform marriage by notarized agreement, but appellant could not cite even a single instance to show the existence of such custom in the society. In order to prove custom, the aspirant must prove that the custom was not only recognized by the society but is also still in existence for the last several years, or it was ever recognized by the courts. Marriage is not a contract under Hindu law, and therefore, it cannot be performed by executing a notarized agreement of marriage.

23. Under these circumstances, it is held that appellant has failed to prove that he was ever married to late Smt. Suman Bai.

24. Although the learned Single Judge had granted liberty to appellant



to seek a declaration that he is the husband of late Smt. Suman Bai, but as it was insisted by the appellant himself that he should be declared as husband of late Smt. Suman Bai, therefore, this Court was required to consider the submissions and the documents filed along with the appeal and I.A. No. 6650/2026.

25. Thus, it is held that the marital ties of Smt. Suman Bai was never broken with Kok Singh and Smt. Suman Bai continued to be the legally wedded wife of Kok Singh.

26. Even assuming that appellant Ram Kripal was in a live-in relationship with late Smt. Suman Bai, but that by itself would not give any legal flavor or color to such a illegal relationship.

27. Although it is well established principle of law that long cohabitation can be presumed to be a valid marriage, but once the first marriage of late Smt. Suman Bai was never severed, and in case if the long cohabitation (this is not a finding of the Court but it is being considered in the light of the submissions made by appellant) is treated as a presumption of a valid marriage, then such presumption would be contrary to Section 5 of the Hindu Marriage Act, and in view of Section 11 of the Hindu Marriage Act, any marriage solemnized in contravention of any of the conditions specified in subsections (i) (iv) and (v) of Section 5 of the Hindu Marriage Act would be a void marriage.

28. Thus, viewed from every angle, it is clear that Kok Singh was the husband of late Smt. Suman Bai and he continued to remain so, and appellant Ram Kripal, who might be in a live-in relationship with late Smt. Suman



Bai, did not acquire any legal status.

29. Under these circumstances, this Court is of considered opinion that appellant is not entitled for any benefits on account of the death of Smt. Suman Bai.

30. For the reasons mentioned above, this appeal fails and is hereby **dismissed.**

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE

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