

Court No. - 36

Case :- SECOND APPEAL No. - 892 of 2024

Appellant :- Mukesh Kumar

Respondent :- Union Of India And 2 Others

Counsel for Appellant :- Kushagra Singh, Namman Raj Vanshi

Counsel for Respondent :- A.S.G.I.

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Namman Raj Vanshi, learned counsel for the appellant and Shri Prem Shankar Prasad, learned counsel for the respondents.

2. This is plaintiff's second appeal arising out of suit claiming a decree for declaration to the effect that names of two children, be recorded in the service record of the plaintiff. Both the courts below have discarded the claim on the ground that these two children had born out of second marriage, which was performed by the plaintiff-appellant during the subsisting first marriage and, hence, the second marriage is void.

3. Submission is that even if the second marriage is void, Section 16 of the Hindu Marriage Act, 1955 protects legitimacy of children born out of such void marriage for all purposes and, therefore, impugned decrees are in teeth of the statute governing such aspect.

4. Matter requires consideration.

5. The instant second appeal is **admitted** on the following substantial question of law:-

" Whether the courts below were justified in denying the decree in view of the legitimacy attached to the children

born out of void marriage, particularly in view of Section 16 of Hindu Marriage Act, 1955?"

6. Notice need not be issued to the respondents, who are already represented by A.S.G.I.

7. Summon the record of the appellate court as well as trial court.

8. List this appeal for final hearing in the second week of January, 2025.

Order Date :- 6.11.2024

Sazia