

CANADA / JUDGMENT

Kaur v. Kandola

2020 BCSC 1593

COURT

Supreme Court of British Columbia

DECIDED

28 October 2020

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2020 BCSC 1593 Kaur v. Kandola IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Kaur v. Kandola, 2020 BCSC 1593 Date: 20201028 Docket: E058625 Registry: New Westminster Between: Amandeep Kaur Claimant And Renbinder Kandola Respondent Before: The Honourable Mr. Justice Verhoeven Reasons for Judgment The Claimant, self-represented: A. Kaur Place and Date of Judgment: New Westminster, B.C. October 28, 2020

- [1] These reasons for judgment should be read in conjunction with reasons for judgment I issued in Grewal v. Bal, 2020 BCSC 1588.
- [2] This is an undefended family law claim. The claimant applies for final orders without appearing in court and without a trial, by way of a requisition under Rule 10-10(1)(a) of the Supreme Court Family Rules, B.C. Reg. 169/2009 [SCFR], commonly referred to as an application for a "desk order."
- [3] The claimant applies for orders:
- a) setting aside the order of this court made May 30, 2011, divorcing her from the respondent Renbinder Kandola; and
 - b) declaring that the marriage she entered into with Renbinder Kandola on September 20, 2008 was void.
- [4] The claimant was unable to locate the respondent in order to serve him with the notice of family claim. She obtained an order of this court allowing her to serve him substitutionally, by posting a copy of the notice of family claim in the New Westminster court registry for 30 days. No response to family claim has been filed, and the claimant says in her second affidavit, filed July 22, 2020, that she has not heard from the respondent, and remains unaware of his whereabouts.
- [5] Her first affidavit, filed November 27, 2019, states that she participated in a marriage ceremony with Mr. Kandola on May 20, 2008. On March 9, 2010, an immigration officer told her that, according to records available to the immigration officer, Mr. Kandola had already been married when he married the claimant, and the immigration officer could find no record of Mr. Kandola divorcing his previous wife. The parties separated the same day.

- [6] The claimant states that she received legal advice that she had insufficient evidence to support an application for a judgment declaring the marriage to Mr. Kandola a nullity; therefore she chose to proceed with an application for divorce, instead, which she obtained.
- [7] This Court granted the divorce order on May 30, 2011. She remarried on April 20, 2018, to Mandeep Singh.
- [8] She states that in April, 2012 she saw news articles regarding a trial of Jotika Ashni Reddy on charges of bigamy, indicating that the respondent testified at the trial, admitting that he and Ms. Reddy were married in April, 1997, and not divorced.
- [9] The claimant states that she now seeks a declaration from this Court that her alleged marriage to Mr. Kandola was a nullity "to ensure that Canadian immigration officials understand that [her] present marriage to Mandeep Singh is a lawful one."
- [10] As proof that Mr. Kandola was married and not divorced as of the date of her purported marriage to him on September 20, 2008, the claimant relies upon the conversation with the immigration officer in 2010, as well as the newspaper articles from 2012, reporting on testimony of Mr. Kandola.
- [11] On the evidence presented, there is in fact no doubt that the claimant is lawfully married to her present husband. If her prior marriage to Mr. Kandola was null and void, then she could have lawfully married her present husband, even without the divorce order this Court granted in 2011. If, on the other hand, her marriage to Mr. Kandola was not void, then the 2011 divorce order of this Court meant that she was free to remarry.
- [12] Applications for final orders must be based upon admissible evidence. The newspaper reports of what the respondent said at the trial are hearsay, as is the evidence about what the immigration officer said in 2010. Hearsay evidence is not permitted on applications for final orders, as the claimant seeks in this case. While the evidence of the claimant appears to show that the respondent participated in a ceremony of marriage with Jotika Ashni Reddy on April 26, 1997, there is no admissible, non-hearsay evidence proving that Mr. Kandola was not divorced prior to September 20, 2008.
- [13] In some cases, the fact that the respondent has chosen to ignore the proceedings and has not denied the allegations made in a notice of family claim can lead to the inference that the allegations are true. However, in this case, no such inference is possible, as it is likely that the respondent has no actual knowledge of these proceedings.
- [14] In my view, the May 30, 2011 order of divorce should not be set aside without reliable, admissible evidence that the claimant's marriage to Mr. Kandola was indeed a nullity. Otherwise, the claimant's present marriage would be rendered invalid. This is likely to require, at a minimum, an application to court presented in the usual fashion, or a trial.

[15] In addition, SCFR Rule 10-10(2)(d) requires that a party wishing to apply for judgment by way of a desk order must file a certificate of the registrar in form F36 certifying that the pleadings and proceedings in the family law case are in order. No such certificate has been filed. That is another reason for rejecting the application.

[16] Therefore, the application must be dismissed. "Verhoeven J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/20/15/2020BCSC1593.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/kaur-v-kandola-2020>

Prepared on 28 October 2026 · Esheria