

Party Name : PRABAL SAHA Vs MANIKA SAHA

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THE HONBLE MR JUSTICE U. B. SAHA THE HONBLE MR. JUSTICE S.TALAPATRA

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The instant appeal is filed against the order dated 02.04.2015 passed by the learned Judge, Family Court, Udaipur in case No. TS (Div) 45/2014.

Facts necessary to be discussed are as follows:

The appellant herein, being the petitioner, filed the TS (Divorce) 45 of 2014 for a decree of divorce dissolving the marriage between the appellant and the respondent. The petitioner has stated in his petition that he is not the biological father of the child, given birth by the respondent-wife and also prayed for DNA/paternity test. An application was filed by the petitioner for determining the paternity of the child of the respondent. Learned Family Judge on 02.04.2015 passed an order stating that he has received a report from the Director of Tripura State Forensic Science Laboratory, Narsingharh, Agartala that the Finger Print division of the said laboratory started examination of DNA since 01.08.2010. It is also mentioned in the order that the respondent agreed to give blood sample of herself and her minor son. In view of the above, the learned Family Judge disposed the petition directing the CMO, Gomati district, Udaipur to arrange for collection of blood sample of Smt. Manika Saha and her minor son, namely, Pradyut Saha in the manner prescribed for DNA test. But the learned Judge, Family Court did not pass any order for collecting the blood of the appellant-petitioner.

Being aggrieved by the said order, the instant appeal is preferred by the appellant-petitioner on the ground that the learned Judge, Family Court, Udaipur committed error directing the CMO, Gomati District, Udaipur for collecting the blood sample of the respondent and her minor son instead of directing the CMO for collecting the blood sample of the petitioner and the child for DNA test.

Mr. Pal has in his usual fairness submitted that he has no objection if the order is modified to the extent that the CMO, Gomati District, Udaipur shall also collect the blood of the petitioner in the manner prescribed for DNA test.

In view of the above, we are directing the CMO, Gomati District, Udaipur to arrange for collection of blood sample of the appellant-petitioner Sri Prabal Saha and the minor son of the respondent, namely, Pradyut Saha for DNA test.

We are also directing the appellant-petitioner and the respondent to appear before the CMO, Gomati District, Udaipur along with her minor son so that the CMO can collect the blood sample from them for DNA Test.

The CMO shall inform the date and place, for collection of blood sample, to the learned Judge, Family Court, so that the learned Judge Family Court can inform them for their appearance before the Medical Officer.

After collection of the blood sample following the procedure prescribed, the CMO shall inform the learned Family Judge, Udaipur, Gomati District and the learned Family Judge shall thereafter, pass necessary order for sending the samples, following the necessary procedure, to the Director, TSFSL, Narsingharh, Agartala for DNA matching of the appellant-petitioner, Sri Prabal Saha, respondent Smt. Manika Saha and her minor son, namely, Pradyut Saha.

In the result, the impugned order is modified to the extent as indicated above.

The appeal is allowed.

Copy of this order be sent to the learned Judge, Family Court, Udaipur, Gomati district as well as to the CMO, Gomati district, Udaipur.