

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2070 OF 2015

Mahadev Uttamrao Tarange and others

.. Petitioners

Versus

Suvarna Mahadev Tarange and others

.. Respondents

Shri. Rupesh A. Zade, for the Petitioners.

CORAM : R.M. SAVANT, J.

DATE : 12th MARCH, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 29.12.2014 passed by the Learned 2nd Joint Civil Judge, Junior Division, Malshiras, by which order the application Exh.25 filed by the Defendant for subjecting the Plaintiff Nos.1 and 2 to a DNA test came to be rejected.

2. The said rejection is on the ground that the paternity of the Plaintiff Nos.1 and 2 has been questioned on the basis of absurd allegations. The Trial Court has referred to the adjudication which took place in respect of the Criminal Misc. Application No.334 of 1990, wherein the Plaintiff No.3 i.e. mother of the Plaintiff Nos.1 and 2 and the Defendant No.1 i.e. present applicant filed compromise pursis wherein

they agreed to cohabit with each other. It was on the basis of the said compromise pursis that the said proceeding was disposed of. The Trial Court observed that the facts in the judgment of the Apex Court in **Dipanwita Roy Vs. Ronobroto Roy in Civil Appeal No.9744 of 2014** are distinguishable from the facts of the present case and therefore, the DNA test is not warranted. The Learned Counsel appearing for the Petitioners also seeks to rely upon the judgment of a Learned Single Judge of this Court reported in **2015(1) Mh.L.J. 888** in the matter of **Namdeo Babasaheb Korde and another Vs. Babasaheb @ Babarao Ramkrishna Korde and others**. In the facts of the present case, where the allegations in respect of the paternity of the Plaintiff Nos.1 and 2 are found absurd by the Trial Court. The said judgment would have no application. Hence, having regard to the reasons mentioned in the impugned order, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]