

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

**WRIT PETITION NO. 4782 OF 2015**

Mr.Vimalkishore Verma

... **Petitioner.**

**Versus**

Ms.Bharti Sagar and Anr.

... **Respondents.**

Mr.Rajeev Chavan, Senior Counsel with Mr.Hemant V. Kenjalkar for  
Petitioner.

Mr.Lobo Glenn Anthony for Respondent No.1.

Ms.A.A.Mane, APP for Respondent No.2-State.

**CORAM : RAVINDRA V. GHUGE, J.**

**DATE : 14<sup>TH</sup> JULY, 2016.**

**P.C. :**

1] I have heard the learned Advocates for the respective  
sides for some time.

2] From the impugned order dated 8.10.2015 passed by the  
learned Judge, Family Court No.2, Mumbai in Petition No.E/551 of  
2009, it appears that the conclusion arrived at by the lower Court in  
directing the DNA Test is neither supported by proper reasons nor  
analysis of the evidence/material available before the Court.

3] The petitioner has placed reliance upon paragraph No.27

of the judgment of the Hon'ble Supreme Court in the matter of ***Santlal Gupta and others Versus Modern Co-operative Group Housing Society Limited and Others (2010) 13 SCC 336*** which reads as under;

“27. It is a settled legal proposition that not only administrative but also judicial orders must be supported by reasons recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice.

'3. ... The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind.'

The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is the principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in

*decision making. The person who is adversely affected must know why his application has been rejected. (Vide State of Orissa v. Dhaniram Luhar (2004) 5 SCC 568 : (2008) 2 SCC (Cri) 49 : AIR 2004 SC 1794, State of Rajasthan v. Sohan Lal (2004) 5 SCC 573 : (2008) 2 SCC (Cri) 53, Vishnu Dev Sharma v. State of U.P. (2008) 3 SCC 172 : (2008) 1 SCC (L&S) 596, SAIL v. STO (2008) 9 SCC 407, State of Uttaranchal v. Sunil Kumar Singh Negi (2008) 11 SCC 205 : (2008) 2 SCC (L&S) 1093, U.P. SRTC v. Jagdish Prasad Gupta (2009) 12 SCC 609 : (2010) 1 SCC (L&S) 156, Ram Phal v. State of Haryana (2009) 3 SCC 258 : (2009) 2 SCC (Cri) 72 : (2009) 1 SCC (L&S) 645, State of H.P. v. Sada Ram (2009) 4 SCC 422 and Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity (2010) 3 SCC 732.”*

4] Learned Advocate for the respondent submitted, on instructions that the impugned order dated 8.10.2015 can be set-aside by consent only on the condition that the learned Family Court be directed to deliver a reasoned order within two weeks on the application Exh.12 filed by the respondent seeking DNA Test to determine the paternity of the child.

5] In the light of the above, this petition is partly allowed by consent. The impugned order dated 8.10.2015 delivered by the learned Family Court No.2, Mumbai is set-aside and application Exh.12 in Petition No.E-551 of 2009 is restored to the file of the

learned Family Court No.2 on the following conditions :-

- a) The Family Court, besides the written notes of arguments and the judgments cited earlier by the parties, can hear the oral submissions of the learned Advocates for the parties afresh. It is informed that the next date of hearing before the learned Family Court is posted on 26.7.2016.
- b) The learned Family Court shall consider the written notes of arguments, oral submissions advanced and the judgments cited while deciding application Exh.12 and shall pass a fresh order clearly indicating that the material placed before the Court has been considered.
- c) The said order shall be a reasoned order keeping in view the observations of the Hon'ble Apex Court in paragraph 27 of the Santlal Gupta judgment (supra) which reproduced above.
- d) The Family Court shall deliver its order as expeditiously as possible and in any case on or before the 12<sup>th</sup> August, 2016.

**(RAVINDRA V. GHUGE, J.)**