

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1214 of 2016

Shivakumar
S/o.Narayana Gounder

... Petitioner

VS

Narayana Gounder
S/o.Late Maniyambadi Gounder

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned Subordinate Judge, Uthangarai, passed in I.A.No.260 of 2015 in O.S.No.297 of 2014 on 16.03.2016.

For Petitioner : Mr.K.Thiruvengadam

For Respondent : Mr.P.M.Duraiswamy

ORDER

This revision arises against the order of learned Subordinate Judge, Uthangarai, passed in I.A.No.260 of 2015 in O.S.No.297 of 2014 on 16.03.2016.

2. Petitioner/plaintiff has filed O.S.No.297 of 2014 on the file of learned Subordinate Judge, Uthangarai, seeking partition and separate possession. Therein, respondent/second defendant filed I.A.No.260 of 2015 seeking conduct of DNA test for petitioner/plaintiff and himself towards determining whether the respondent/second defendant is the biological father of petitioner/plaintiff. The Court below, under the impugned order, allowed such application. Aggrieved, petitioner/plaintiff has filed this revision.

3. Heard learned counsel for petitioner and learned counsel for respondent.

4. In allowing the application, the Court below has reasoned thus:

Plaintiff has filed the suit seeking partition of ancestral property of his father/second defendant. Though the plaintiff has produced Ex.R1 - Xerox copy of School Transfer Certificate, Ex.R2 - Xerox copy of ration card, Ex.R3 - Xerox copy of voter I.D. in support of his contention that the second defendant is his father, Court below was of the view that no conclusion could be arrived at on the basis of such documents. It took into consideration the contention of second defendant that the mother of the plaintiff lived with him only for two weeks and thereafter, left him, had illicit intimacy with one Jayapal and the plaintiff was born to him and found that such issue could be decided only

during trial, but considered it appropriate to allow the application as second defendant himself was prepared to undergo a DNA test. Plaintiff has not stated any reason as to why DNA test should not be conducted or how it would affect his case. Finding that conduct of DNA test would be of much use in arriving at a just conclusion, the Court below allowed the application. This Court finds no error in the order under challenge.

The Civil Revision Petition is dismissed. No costs.

18.07.2016

Index:yes/no
Internet:yes
gm

To

The Subordinate Judge,
Uthangarai.

C.T.SELVAM, J

gm

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