

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.8502 of 2015

Date of decision : 10.05.2016

Ummardin

...Petitioner

Versus

Subeddin and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Ashish Gupta, Advocate for the petitioner.

Mr. Virendra Rana, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the impugned order, whereby application seeking indulgence of this Court calling upon the respondent-plaintiff for conducting the DNA test, has been rejected.

Mr. Ashish Gupta, learned counsel appearing on behalf of petitioner submits that respondent-plaintiff instituted suit claiming declaration for setting aside the sale deed on the ground that being son having a right by birth. The factum of parentage of the respondent-plaintiff was emphatically denied. The petitioner-defendant has no other evidence or mode except to get DNA test in order to remove the chaff from the grain and thus urges this Court to set aside the order.

Mr. Virendra Rana, learned counsel appearing on behalf of respondent-plaintiff submits that birth certificate, transfer certificate, election card and the relevant documents have been brought on record to show the parentage of the respondent-plaintiff that is of Ummardin. The aforementioned evidence is sufficient to prove the parentage. No purpose would be served for seeking DNA Test. The petitioner-defendant is required to stand on his own legs to belie the claim of respondent. Having failed to do so, rightly so, the application has been dismissed and thus urges this Court for affirming of the order under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that in view of peculiar facts and circumstances of the case particularly when the fatherhood of the respondent-plaintiff has been denied, the petitioner has no other remedy but to invoke the provisions of Indian Evidence Act read with Sections 45, 46 and 51 to get the DNA test in order to ascertain the parentage.

I am of the view that in case plaintiff is so sure about the fatherhood/parentage, he should not be hesitant in offering himself for DNA test. Aforementioned view of mine is supported by the judgment cited in notice of motion order passed by this Court i.e. judgment of this Court in *Rajli @ Rajjo Vs. Kapoor Singh and others, 2014(2) PLR 575*.

In view of the aforementioned facts and circumstances, impugned order is set aside. Application calling upon the respondent to offer himself for DNA test is allowed.

Revision petition is resultantly allowed.

10.05.2016

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(AMIT RAWAL)
JUDGE