

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

CR No.1026 of 2017
Date of Decision:08.11.2017

Kulbir Singh and another

...Petitioners

Versus

Paramjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.D. Bawa, Advocate
for the petitioners.

Mr. G.S. Sirphikhi, Advocate
for respondent Nos.1 and 2.

ANIL KSHETARPAL, J.(Oral)

Defendants-petitioners are in revision petition against order passed by the learned trial Court refusing the application to direct plaintiff Nos.1 and 2 to undergo DNA Profiling Test.

Dispute in the present case is with regard to estate of Jasbir Singh, whose whereabouts are not known for the last 7 years. Plaintiffs claiming to be widow and daughter, have filed a suit on the basis of natural succession. Defendants are disputing that neither plaintiff No.1 is widow nor plaintiff No.2 is daughter of Jasbir Singh.

Learned trial Court while relying upon the judgment passed by the Hon'ble Supreme Court of India in (1993) 3 SCC 418 “Gautam Kundu vs. State of West Bengal” dismissed the application. Hon'ble Supreme Court has culled out following eventualities when DNA Profiling Test can be ordered:-

“ (i) *The court in India can not order blood*

test as a matter of course.

(ii) Whenever applications are made for such prayed in order to have roving inquiry, the prayed for blood test cannot be entertained.

(iii) There must be strong prima facie case in that the husband must establish non-access in order to dispel the presumption arising under Section 112 of Evidence Act.

(iv) The Court must carefully examined as to what would be the consequences ordering the blood test, whether it will have the effect of branding a child as bastard and the mother as an unchaste women.

(v) No one can be compelled to give sample of blood for analysis.”

Parties in the present case are fighting for the property of Jasbir Singh. It is the plea of the petitioners-defendants that plaintiffs are not widow and daughter of Jasbir Singh. It is for the defendants to prove such fact. DNA Profiling test cannot be ordered in routine.

In view thereof, there is no scope for interference in the discretion exercise by the learned trial Court.

Hence, this revision petition is dismissed.

08.11.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No