

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CR No.1673 of 2015
Date of decision: 01.11.2017

Mamta

..... Petitioner

Versus

Parshant

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arihant Jain, Advocate for the petitioner.

Respondent in person.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in revision petition against the order passed by the trial Court refusing to issue direction to the defendant to give his DNA samples for DNA profiling.

Plaintiff-Mamta claims to be daughter of Ranbir Singh. She has challenged a decree passed by the Civil Court on 04.09.1995 in the case titled as Parshant Vs. Sunita. She claims property in the suit.

She has also sought a declaration that the defendant-Parshant is not son of Ranbir Singh. Learned trial Court has dismissed the application after recording as under:-

"I do not agree with this contention because,, if in a case, there is no material on file from which the issue of paternity can be effectively decided, then DNA can be one of the options which can be used by the court for effective judgment but situation in the present case is different. In this case, defendant is claiming himself to be son of Ranbir Singh and his claim is supported by several documents. Defendant has placed on file documents like ration card of Ranbir Singh in which he is recorded as son,

affidavit given by Ranbir Singh before Land Acquisition Collector in which he claimed that defendant is his son. One photocopy of receipt of PNB is placed on record by defendant which show that Treasury Challan was deposited by defendant with his father's name as Ranbir Singh. Photocopy of Birth Certificate is filed from the side of defendant in which name of newly born is not written, but father name is written as Ranbir Singh. Defendant claimed that this is his Birth Certificate in which date of Birth is written as 19.7.1975. Defendant also placed on record his Admission Card for examination conducted by CBSC in which his father name is written as Ranbir Singh and Date of Birth is written as 19.7.1975. It shows, at this stage, that copy of Birth Certificate placed on file from the side of defendant in which father name is written as Ranbir Singh is belonging to the defendant. So, I'm of the view that there are several documents shown by defendant in his favour which point out towards the fact that Ranbir Singh was his father. When there is enough documentary evidence on the basis of which an issue in dispute can be decided then resorting to DNA Test is an un-necessary exercise and not required from my point of view."

The dispute in the present case is with respect to property. Ranbir Singh had suffered a consent decree in favour of two minor children, one is Parshant and second is Srikant. The aforesaid decree is sought to be challenged on the ground that defendant-Parshant is not the son of Ranbir Singh, but he is son of Mahabir Singh. In a way the effort is to declare Parshant as bastard as far as family of Ranbir Singh. This cannot be permitted by the Court.

Plaintiff is to prove her case. She has to lead evidence in support of her case. In this manner, DNA profiling test cannot be misused by the parties. Hon'ble Supreme Court in Goutam Kundu Vs. State of West Bengal and another, 1993(3) SCC, 418 held that:-

"1. That Courts in India cannot order blood test as a matter

of course.

2. *Wherever applications are made for such prayers in order to have roving inquiry, the prayer for blood test cannot be entertained.*

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

4. *The Court must carefully examine as to what would be the consequence of ordering the blood test; whether it will have the effect of branding a child as a bastard and the mother as an unchaste woman.*

5. *No one can be compelled to give sample of blood for analysis.”*

Revision petition is dismissed.

01.11.2017

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No