

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2761 of 2015 (O&M)
Date of Order: 18.09.2017

Kukki Singh

..Petitioner

Versus

Rani

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aakash Singla, Advocate,
for the petitioner.

Mr. Rajnikant Upadhyay, Advocate,
for the respondent.

ANIL KSHETARPAL, J (Oral)

Defendant is in revision petition against the order directing the plaintiff and the defendant to appear before the FSL Chandigarh to give their blood samples for DNA profiling test.

Plaintiff filed a suit along with an application for permission to file the suit as an indigent person. Plaintiff-respondent claims herself to be daughter of the defendant.

During the pendency of the suit, an application was filed by the plaintiff for DNA profiling test of the plaintiff and defendant, as the defendant had denied that the plaintiff is his daughter.

Learned trial Court after appreciating the evidence available on the file, has allowed the application and ordered the parties to give their blood samples for DNA profiling test.

Learned counsel for the petitioner has submitted that DNA profiling test cannot be ordered in routine. He has further submitted that the

main issue involved in the present suit is different. He has further submitted that the application under Order 33 of the Code of Civil Procedure has not been decided and, therefore, there is no suit.

I have considered the submissions of learned counsel for the petitioner.

In the present case, the main issue which requires to be decided is whether the plaintiff is daughter of defendant or not? Plaintiff claims herself to be daughter of the defendant, whereas defendant disputed this fact. Plaintiff in the main case has sought maintenance.

The question of entitlement of maintenance would always depend upon the fact that whether the plaintiff is daughter of the defendant. In the present case, plaintiff herself has come forward with an application to undergo the DNA profiling test. Once the modern scientific test is available, which would help the Court in adjudicating upon the dispute, the course adopted by the Courts cannot be faulted.

Although, there is some substance in the argument of counsel for the petitioner that till date the proper application to suit has not been decided and therefore, there is no suit. However, it is not in dispute that in the application for permission to file a suit as a pauper, the learned counsel had asked for a report of the Collector. After the receipt of the report of Collector, defendant was called upon to file written statement. Written statement was filed by the defendant, which is Annexure P-2 on the file. It is clear that the trial Court has proceeded with the suit of the case.

Counsel for the petitioner while relying upon two judgments of the Hon'ble Supreme Court of India, reported as **Sharda v.Dharmpal, 2003 (2) R.C.R.(Civil), 795** and **Dipanwita Roy v. Ronobroto Roy, 215 AIR(SC)**

418, has contended that no directions could be issued to the defendant. Facts of both the judgments cited by learned counsel for the petitioner are different. In Dipanwita Roy v. Ronobroto Roy (supra), the Hon'ble Supreme Court of India was dealing with the application of a husband seeking divorce on the ground of infidelity of the wife. The Court permitted the holding of DNA profiling test of the husband as well as of the son to prove infidelity. In other words, the Court was of the view that the son is sought to be declared bastard. Whereas in the judgment reported as Sharda v. Dharmpal (supra), the medical test was sought to be conducted in a case arising out of divorce proceedings.

In the present case, the facts are entirely different. The core issue involved in the present case is whether the plaintiff is daughter of the defendant or not?

For the reasons recorded hereinabove, I do not find any good ground to interfere with the order dated 16.03.2015, passed by the learned Additional Civil Judge (Sr. Division), Moonak. Therefore, the civil revision is ordered to be dismissed.

September 18, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No