

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4679 of 2017 (O&M)
Date of Decision: 19.09.2017

Jeannie Cheema

.....Petitioner

Vs.

Steven Simon Elliott @ Sardeep Singh Grewal and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Manuj Nagrath, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

The petitioner has come up in revision against the order dated 06.05.2017 (Annexure P-9) whereby, the application filed by the plaintiff-respondent No.1 under Section 151 of Code of Civil Procedure, 1908, has been allowed and conducting for DNA test has been ordered,

A perusal of the impugned order dated 06.05.2017 shows that plaintiff had filed the suit for declaration, permanent injunction and joint possession and he had filed an application dated 13.08.2009 for directing defendant No.1 to undertake DNA test which was allowed vide order dated 21.12.2011 and both plaintiff and defendant No.1 were directed to appear before the Director, Center for DNA Finger Print and Diagnostic, Hyderabad on 10.02.2012 for conducting DNA test. Plaintiff appeared before the DNA Center, Hyderabad on 10.02.2012, however defendant No.1 did not appear. Plaintiff gave his blood sample and also deposited requisite amount for conducting the DNA Test. Thereafter, defendant No.1 challenged the order dated 21.12.2011 before the High Court which modified the impugned order vide its order dated 22.03.2012 observing that the trial Court exercised the discretion at premature stage. Without entering into the controversy regarding the validity of the impugned order, the petition was disposed of with a direction that the implementation of order dated 21.12.2011 will be deferred till the stage of framing of issues subject to the pleadings of defendant No.1, decision of the application under Order 7, Rule 11 CPC or any order passed under Order 10 or Section 89 of CPC. It has been further submitted that all the applications filed

by defendants have been dismissed. Issues have been framed. Application under Order 7 Rule 11 CPC filed on behalf of defendants has been dismissed vide order dated 08.08.2012 against which defendants had approached the Hon'ble High Court which stayed the proceedings of trial Court. Ultimately, the said revision petition was dismissed on 01.10.2015. Now, due to death of defendant No.1, his blood samples cannot be taken. Therefore, prayer had been made for directing defendant Nos.4 and 5 sister of the plaintiff to undertake the DNA text.

Reply to the application had been filed by the defendants praying for dismissal of the same.

Learned trial Court has observed that issues in this case have been framed vide order dated 29.09.2012. As such, in view of the order dated 22.03.2012 passed by the High Court, the stage till which the operation of order date 21.12.2011 was deferred has come. However, during the pendency of the proceedings, defendant No.1 had expired and plaintiff had now prayed for directing defendants No.4 and 5, his sisters, to undertake the DNA Test. In the absence of defendant No.1 and to resolve the dispute regarding identity of plaintiff and to ascertain his paternity, the present application was allowed by the learned trial Court.

So in the light of the discussion, the orders of the Court below does not reflect any material irregularity or perversity which warrant interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

19.09.2017
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>