

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

CR No.7138 of 2015(O&M)

Date of decision: 20.09.2017

Manpreet Kaur and anotherPetitioners

VERSUS

Ravinder Bhullar and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.S. Mamli, Advocate for the petitioners.

Mr. Robin Dutt, Advocate for respondents.

REKHA MITTAL, J.

Challenge in the present petition has been directed against order dated 23.09.2015 (Annexure P-1) passed by the trial Court whereby application of the petitioner for conducting DNA test of the plaintiff - respondent has been declined.

Counsel for the petitioner has submitted that in the suit filed by Ravinder Bhullar – respondent no.1, she has claimed her right in the suit property, previously owned by Balbir Singh son of Gurnam Singh, alleging herself to be the daughter and one of the class-I heirs of deceased Balbir Singh though admittedly Balbir Singh left behind his widow Kirpal Kaur and the petitioners are successors in interest of Parvinder Singh son of Balbir Singh, being his class-I heirs. It is argued that Ravinder Bhullar respondent/plaintiff is not the daughter of Balbir Singh but she is the daughter of Smt. Salinder Kaur @ Saminder @ Surinder and Ranjit Singh son of Jora Singh resident of Kalapur. Further argued that Balbir Singh

executed Will dated 15.02.2002 whereby he bequeathed 10 acres of land situated in village Bankat Tehsil Bilaspur District Yamunanagar in favour of Parvinder Singh husband of Manpreet Kaur and a house at Panchkula in favour of Kirpal Kaur. It is further argued that at the time of mutation, Kirpal Kaur gave affidavit (Annexure P-3) wherein she had categorically deposed that Balbir Singh Bhullar left behind two legal heirs namely Kirpal Kaur Bhullar (wife) and Parvinder Bhullar (son). An affidavit to the same effect was given by Parvinder Bhullar with regard to class-I heirs of deceased Balbir Singh. It is argued with vehemence that Kirpal Kaur – respondent No.2/defendant No.1 has changed her stance with regard to legal heirs of deceased Balbir Singh Bhullar with a clear intent to cause prejudice to rights of the petitioners who are the widowed, daughter-in-law and grandson of Balbir Singh Bhullar. According to counsel, in the given scenario, plea raised by Smt. Kirpal Kaur admitting Ravinder Bhullar to be her daughter cannot constitute a valid ground to deny prayer of the petitioners that Ravinder Bhullar and Kirpal Kaur should subject themselves to DNA test to have a finding on the basis of scientific investigation if claim of Ravinder Bhullar to be the daughter of Balbir Singh and Kirpal Kaur is tenable or otherwise. In support of his contentions, he has referred to Division Bench judgment of the Delhi High Court **Rohit Shekhar Vs. Narayan Dutt Tiwari and another, 2012 (2) RCR (Civil) 1011.** Further reference has been made to judgment of this Court **Neelam Rani and others Vs. Smt. Mainka @ Maina Devi and others, 2014 (2) RCR (Civil) 560.**

Counsel representing respondent No.1 has supported the impugned order with the submission that since Kirpal Kaur has admitted Ravinder Bhullar to be her daughter, the petitioners are nobody to

challenge paternity and maternity of Ravinder Bhullar. It is further submitted that in the records regarding studies of Ravinder Bhullar, Balbir Singh has been recorded to be father of Ravinder Bhullar and the said fact also finds reference in para 6 of the petition. It is further submitted that the petitioners in place of establishing their plea that Ravinder Bhullar was born out of biological relationship between Smt. Salinder Kaur and Ranjit Singh has filed the instant petition with a clear intent to embarrass the respondents. According to counsel, DNA test is not to be directed as a matter of routine and the same should be directed only in deserving cases. For this purpose, he has placed reliance upon judgment of Hon'ble the Supreme Court **Banarsi Dass Vs. Teeku Dutta and another, (2005) 4 SCC 449.**

I have heard counsel for the parties, perused the paper-book particularly the order impugned.

The trial Court on a detailed consideration of rival contentions raised by counsel for the parties has rejected plea of the petitioners for directing DNA test of the respondents and has taken a strong view of the fact that Kirpal Kaur – respondent No.2 has admitted claim of respondent No.1/plaintiff that she is daughter of Kirpal Kaur and Balbir Singh. As Smt. Kirpal Kaur has admitted that Ravinder Bhullar was born out of matrimonial relationship between Kirpal Kaur and Balbir Singh, it is difficult to accept that there is a serious dispute with regard to paternity of Ravinder Bhullar which needs to be decided on the basis of DNA test. If Kirpal Kaur in her alleged affidavit purported to be submitted at the time of sanction of mutation has not made reference to Ravinder Bhullar to be daughter of Balbir Singh, it would be for Kirpal Kaur to explain as to why

there is inconsistency/contradiction in her stand in the present proceedings vis-a-vis affidavit (Annexure P-4).

Coming to the judgment relied upon by counsel for the petitioners in **Rohit Shekhar's case** (supra), there was a serious dispute between Rohit Shekhar and Narayan Dutt Tiwari with regard to paternity of Rohit Shekhar who claimed himself to be son of respondent Narayan Dutt Tiwari. In those circumstances, a direction was issued for DNA test.

In **Neelam Rani and others case** (supra) decided by this Court, Smt. Mainka @ Maina Devi claimed herself to be daughter of Rajender Prasad and on the application filed by the plaintiff, the Court directed the plaintiff and defendants No.2 to 4 to appear before the Civil Surgeon to give their samples for DNA test. The order passed by the trial Court was challenged by defendants No.2 to 4 who had challenged claim of the plaintiff to be daughter of Rajender Prasad with the plea that defendants No.2 to 4 are LR's of Rajender Prasad and entitled to the property left behind by him. This Court refused to interfere in the order passed by the trial Court with the observations that the trial Court has examined the matter in right perspective and recorded cogent grounds in the relevant direction. Such order containing valid reasons cannot legally be set aside in exercise of superintendence power of the Court as envisaged under Article 227 of the Constitution of India unless the same is perverse and without jurisdiction. Further held that no such prudent illegality or legal infirmity has been pointed out by counsel for the petitioner, so, the impugned order deserves to be maintained. As has been noticed hereinbefore, in the case at hand, Kirpal Kaur wife of Balbir Singh has not disputed Ravinder Bhullar to be born out of marital relationship between Balbir Singh and Kirpal Kaur. In the given circumstances, I do not find

any patent illegality or legal infirmity in the impugned order warranting intervention in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated hereinbefore shall cause prejudice to either of the parties at the time of final adjudication.

SEPTEMBER 20, 2017		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no