

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11018 OF 2018

KAVITA AMIT SONAWANE
VERSUS
MADHUKAR DASHRATH WAKE AND ANOTHER

...
Advocate for the Petitioner : Shri Patil Vijay B.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 03rd October, 2018

Per Court:

1 The Petitioner, who claims to be the daughter of Defendant No.1 in RCS No.74/2016 on the basis of which she claims share in the property of her father, is aggrieved by the impugned order dated 06.11.2017 by which, the Trial Court has directed the Petitioner and Defendant No.1 (Madhukar Wake) to subject themselves to the "Deoxyribonucleic Acid" (DNA) test before the Medical Officer, Rural Hospital, Pachora, District Jalgaon on 08.12.2017 to collect their blood samples for being forwarded to the Forensic Laboratory at Nashik.

2 Admittedly, the Petitioner has not subjected herself to such test for collecting blood sample.

3 I have considered the strenuous submissions of the learned Advocate for the Petitioner.

4 What intrigues me is that when the Petitioner seeks a share in the property of her father claiming to be his biological daughter and the father having denied that she is his daughter, the Petitioner should have actually been satisfied that the paternity test would be carried out and her father would be identified. It is quite surprising. Normally, children come forward and seek DNA test for identifying their parents. It is the daughter, who, on the one hand, wants a share in the property of her father and on the other hand, does not want to undergo the DNA test, which would fortify her claim that Defendant No.1 (Madhukar) is her father.

5 The Honourable Supreme Court, in the matters of *Nandlal Wasudeo Badwaik vs. Lata Nandlal Badwaik, (2014) 2 SCC 576* and *Dipanwita Roy vs. Ronobroto Roy, (2015) 1 SCC 365*, has concluded that the DNA test is practically foolproof and is a better piece of evidence whereby, the Court would be assisted with the aid of medical science to prove a fact.

6 In view of the above, this Writ Petition being devoid of merit is dismissed.

7 The Trial Court is directed to issue a fresh order by which, the Petitioner (Kavita Sonawane) and Defendant No.1 (Madhukar Wake) would appear before the Medical Officer, Rural Hospital, Pachora, District Jalgaon for collecting their blood samples. The said samples shall be then forwarded to the Regional Forensic Science Laboratory at Cantonment

(Chavani), Aurangabad as per the procedure. The expenses of the DNA test as well as traveling expenses shall be borne by Defendant No.1. It is made clear that if the Petitioner/ Plaintiff fails to face the DNA test, the Trial Court would draw an appropriate adverse inference against the Petitioner.

kps

(RAVINDRA V. GHUGE, J.)