

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

**CR No.1721 of 2018 (O&M)
Date of decision : March 15, 2018**

Nirmala Devi

..... Petitioner

Versus

Naresh Kumar alias Arunesh Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Viridi, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 02.02.2018 (Annexure P-1) passed by learned Addl. Civil Judge (Sr. Divn.), Mukerian, District Hoshiarpur, vide which an application filed by the plaintiff at the stage of rebuttal and arguments for conducting the DNA test of plaintiff No.1-A and defendant No.1 to determine their matrilineal/patrilineal ancestry, was declined.

Heard.

The trial Court gave following reasoning while passing the impugned order:

“After hearing the ld. Counsels for the applicants/plaintiffs, respondent/defendant no.1 and perusing the case file, I am of the view that the applicants/plaintiffs have moved the present application in order to issue a direction to the plaintiff no. 1-A and defendant no. 1 to undergo DNA Test in order to

determine their materilinal and patrilineal ancestry. From the perusal of the pleadings of both the parties, it is noticed that plaintiffs are claiming that Inder Dass was unmarried and his brother was Dammu Ram who was the father of the plaintiffs and father of Sat Pal, Jashpal, Dhian Chand and Charan Dass. The defendants are claiming that actually Inder Dass was married and Sat Pal was the son of Inder Dass and Maya Devi was the wife of Inder Dass. The defendants are further claiming that the plaintiffs have intentionally written the name of father of Satpal as Dammu Ram in order to grab the property of Inder Dass. In the present case, the judgment dated 7.1.2015 passed by the Hon'ble Court of Sh. Sumit Makkar, PCS, Ld. Addl. Civil Judge (Sr. Divn.), Mukerian has been placed on file, the perusal of which reveals that earlier defendant Yashpal and others have filed a suit against the defendant no.1 and 2 of the present case along with Sham Lal and even in the said case, the said Hon'ble court held at page no.10 in para no.22 that main controversy amongst the parties is regarding the paternity i.e. male line of ancestry of plaintiffs and defendant no.1 and after going through the evidence, the said Hon'ble Court held in para no.28 at page no.15 that the plaintiffs of that suit have miserably failed to prove that Late Satpal was the son of the Dammu Ram whereas the Arunesh Kumar and others have successfully proved that Inder Dass was the father of Satpal and was husband of Maya Devi. It has been further held in this para that Arunesh Kumar is the grandson of Late Inder Dass who is entitled to inherit the estate left by Late Inder Dass including property in dispute. So this judgment clears that the paternity of the defendant no.1 and marriage of Inder Dass with May

Devi and birth of their son Satpal has already been held in this judgment dated 7.1.2015. So considering this judgment, I am of of the view that there is no need to direct for DNA profiling and Finger Printing Test as claimed in the present application. Therefore, the application is hereby dismissed and disposed of. ---”

I am of the view that at the first instance, the application has been filed when the case was ripe for arguments, the evidence should have been led at the proper stage. Secondly, the matter has already been decided by the previous judgment of the competent Court.

The plea is to get the DNA test conducted to determine the matrilineal/patrilineal of ancestry of plaintiff No.1-A and defendant No.1.

I am of the view that sufficient reasonings have been given by the trial Court. The application is filed at the later stage. Therefore, there is no ground to order the DNA testing.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

March 15, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No