

In the High Court of Punjab and Haryana at Chandigarh

CR No.4717 of 2017(O&M)
Date of decision: 07.09.2018

Sarti Devi

.....Petitioner

Versus

Balbir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Anil Dutt, Advocate and
Mr. B.S. Bairagi, Advocate
for the petitioner.

Mr. Sandeep Kumar Ghangas, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has challenged the order dated 10.05.2017 passed by Civil Judge (Junior Division), Panipat, vide which the application for conducting DNA profile examination of defendant No.1 was dismissed.

[2]. DNA profile of respondent No.1 was declined on the ground that no eminent need exists for conducting DNA profile as the determination of biological relationship of respondent No.1 with the deceased Sunehri Devi is not required for adjudication of this *lis*.

[3]. Chandan Singh was the original owner. He divided his

property before his death in the year 1985. Patori Devi was wife of Chandan Singh. Sarti Devi petitioner is the daughter of Chandan Singh. Sunehri Devi was second daughter of Chandan Singh who was married to Jeet Singh. No issue was born to that wedlock. Jeet Singh got solemnized his second marriage with Krishana Devi. From the said wedlock, defendants No.1 to 4 took birth. Defendant No.1 got executed two civil Court decrees from Sunheri Devi in addition to one Will. Civil Court decrees were executed on 14.04.1990 and 27.10.1995, whereas registered Will was executed on 02.06.2005. All the aforesaid three transactions were challenged by the plaintiff/petitioner in the civil suit.

[4]. The locus of the plaintiff/petitioner in challenging the civil Court decrees and Will would be debatable as Sunehri Devi never challenged the said transactions during her lifetime. The test of eminent need has to be satisfied before ordering DNA profile. It is not the case of the petitioner that Sunehri Devi did not have any right in the property in question. It is also not the case of the plaintiff/petitioner that in the property of Sunehri Devi, plaintiff/petitioner was having any pre-existing right. DNA profile in respect of defendant No.1 viz-a-viz defendants No.2 to 4 would give only conclusion that the defendants have taken birth from the same mother irrespective of the fact whether the

mother was Sunehri Devi or Krishana Devi. In the event of alienation having been made by Sunehri Devi in favour of defendant No.1, the conduct of DNA profile viz-a-viz defendant No.1 and his sisters would be of no consequence and the alleged plea of fraud by defendant No.1 would not advance any such case for conduct of DNA profile as the same can be proved by the plaintiff/petitioner by way of leading her substantive evidence.

[5]. For the reasons recorded hereinabove, I find no error of jurisdiction in the impugned order dated 10.05.2017 passed by Civil Judge (Junior Division), Panipat. This revision petition is accordingly dismissed.

September 07, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No