

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1595 of 2019

Ragini Kumari D/o Madan Singh, resident of Village- Dharampur, P.O.-
Ahiyapur, Via- Karnaul, P.S.- Sahebganj, District- Muzaffarpur.

... .. Appellant/s

Versus

Sandeep Kumar S/o Late Shatrughan Thakur, resident of Village and P.O.-
Rup Chapara, P.S.- Sahebganj, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar Pandey

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

02-12-2019

The present petition has been filed “*against the order dated 03.07.2019 passed in Matrimonial Case No. 453/17 filed by the respondent under Section 13(1)(a) of Hindu Marriage Act 1955 whereby and whereunder the learned Principal Judge, Family Court, Muzaffarpur has allowed the petition of the respondent for DNA Test of his son.*”

2. Learned counsel for the petitioner submitted that the learned court below has acted in illegal exercise of jurisdiction in allowing the prayer of the respondent for conducting DNA test of the child merely on the allegation made in his divorce petition that such child had been begotten from adultery committed by the petitioner. It is further submitted that such DNA test ought not to have been ordered in the absence of evidence having first been brought on record by the respondent in support of his allegation.

3. Heard learned counsel for the petitioner and considered the materials on record. At the very outset, it may be noted that the petitioner has erroneously stated that the respondent has filed a divorce petition under Section 13(1) (a) of the Hindu Marriage Act. As a matter of fact, such petition



was filed on 21.12.2017 for annulment of marriage under Section 12(d) of the said Act in which, *inter alia*, the respondent has alleged that the petitioner had refused to consummate the marriage, as she had become pregnant prior to marriage.

4. Learned counsel for the petitioner has not been able to satisfy this Court how the impugned order suffers from any error of jurisdiction. It is well-settled that while exercising jurisdiction under Article 227 of the Constitution, this Court does not exercise appellate powers to oversee the correctness of the decision of the learned court below. It was well within the discretionary power of the learned court below to direct the DNA Test. As such no interference is called for and the petition stands dismissed.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
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