

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CRP (PD) NO.344 OF 2016
AND
CMP NO.1787 OF 2016

1.A.Kumaran
2.A.Thangaraj

...

Petitioners

VS.

1.Vasantha
2.Devika
3.R.Munusamy
4.Elumalai

5.Joint Sub Registrar - 2
Joint Sub Registrar - 2 Office
Thiruvathipuram,
Cheyyar Town & Taluk,
Tiruvannamalai District.

सत्यमेव जयते...

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 25.06.2015 passed in I.A.No.285 of 2014 in O.S.No.65 of 2010 on the file of the Sub Court, Cheyyar.

For Petitioners :
For Respondent-1 :

Mr.P.Mani
Mr.V.Meenakshi Sundaram

ORDER

Aggrieved over the order allowing an interlocutory application filed for conducting DNA test on the petitioners and respondents 2 and 3, to prove that the first respondent herein and the petitioners were born to a common father, the present Civil Revision Petition is filed.

2. The petitioners are children of one Arumuga Mudaliar. The first respondent claims herself as the daughter of Arumuga Mudaliar. The fact remains that the parents of both the parties are no more and they were born to different mothers. DNA test is sought to be conducted with the samples of first respondent and the petitioners to prove that they are born to a common father, thereby, the first respondent is entitled to partition.

3. In similar circumstances, this Court in ***BHARATH (MINOR) VS. N.NARAYANASAMY GOUNDER (DIED) [CRP (PD) NO.2352 OF 2015 DECIDED ON 29.06.2015]*** has held as under:

"..... In the case on hand, the plaintiffs seek to conduct DNA test of the first plaintiff and defendants 7 to 10 and also the brother of the defendants 7 to 10. There will not be any useful purpose in subjecting the defendants 7 to 10 for DNA test which would only cause harassment and hardship to the parties."

4. Further, this Court in **RAJA VS. GOPI [CRP (PD) NO.3801 OF 2013 DATED 21.02.2019]** has held as under:

"3.To the direction of this Court, Dr.N.Mahalakshmi, Deputy Director, DNA Division, Forensic Sciences Department, Chennai-4 is present before this Court and explained that in the absence of parents, it is difficult to find out the paternity of the persons. At the most, they can ascertain that both are from the same family and not on paternity, and the result cannot be conclusive in respect of paternity."

5. In the instant case also, the parents are no more and the parties are born to different mothers. As held by this Court, the result cannot be conclusive proof of paternity.

6. In view of the findings given by this Court in the judgments cited above, without going into the merits of the case, this Court is inclined to set aside the order passed by the Trial Court. Accordingly, the order dated 25.06.2015 passed in I.A.No.285 of 2014 in O.S.No.65 of 2010 is set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

23.07.2019

Index : Yes/No
Internet : Yes/No
TK

To

The Sub Judge
Sub Court
Cheyyar.

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M.GOVINDARAJ, J.

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CRP (PD) NO.344 OF 2016

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