

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

**CR No.2476 of 2019(O&M)
Date of Decision: 11.04.2019**

Sardara Singh (now deceased) through his LR.....Petitioner

Versus

Joginder Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. M.S. Virdi, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this revision petition against the order dated 22.01.2019 passed by Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Baba Bakala Sahib, vide which application filed by the petitioner for direction to defendant No.1 Joginder Singh to appear before the concerned Doctor to give his blood sample for the purpose of DNA profile was dismissed.

[2]. Perusal of the record would show that vide order dated 17.08.2017, the application for conducting DNA test of Sardara Singh with his brother Joginder Singh (defendant No.1) was

allowed after noticing the fact that plaintiff has filed a suit for declaration to the effect that the plaintiff and his brothers namely Hari Singh, Tara Singh and Joginder Singh (defendant No.1) are owners in possession of the suit land. Due to some domestic problem, the plaintiff left the village and remained away from Punjab. Defendant No.1 Joginder Singh, Tara Singh and legal heirs of Hari Singh played a fraud and forged the death certificate of the plaintiff, whereas he is still alive and they got the mutation of inheritance sanctioned. Hari Singh and Tara Singh have also died. They have been represented by their legal representatives. Even the legal heirs of Tara Singh have admitted the claim of the plaintiff and admitted him to be son of Amir Singh and brother of Tara Singh. Joginder Singh (defendant No.1) has contested the case of the plaintiff. Plaintiff Sardara Singh has also died.

[3]. The application for DNA profile was allowed by Additional Civil Judge (Senior Division), Baba Bakala Sahib vide order dated 17.08.2017 and necessary directions were also issued to Professor/Head of Department Forensic Medicine Government College, Amritsar to collect the sample for DNA test examination and thereafter, tender the report on the DNA profile regarding relationship of the plaintiff Sardara Singh with defendant No.1 Joginder Singh in the Court.

[4]. Thereafter, Additional Civil Judge (Senior Division), Baba Bakala Sahib passed an order dated 05.09.2018 on the application filed by Joginder Singh under Order 32 Rule 3 read with Section 151 CPC. Joginder Singh was directed to appear before the Professor/Head of Department Forensic Medicine Government College, Amirtsar on 17.09.2018. It was also observed that in case, Joginder Singh fails to appear before the Department, an adverse inference will be drawn against him. The separate letter was also issued to the Professor/Head of Department Forensic Medicine Government College, Amirtsar in the aforesaid context.

[5]. Thereafter, the application was filed by the plaintiff for issuing direction to the Professor/Head of Department Forensic Medicine Government College, Amirtsar to take blood sample of defendant No.1 Joginder Singh from his house. The said application was dismissed vide the impugned order on the premise that necessary direction has already been issued to defendant No.1 to give his blood sample for the purpose of DNA profile. In the event of not doing so, adverse inference has to be drawn against him.

[6]. In my considered opinion, no fresh direction can be issued in the context of drawing adverse inference in case, defendant No.1 Joginder Singh does not appear before the

Medical Board. This revision petition is accordingly dismissed.

11.04.2019

Prince

(RAJ MOHAN SINGH)

JUDGE

Whether reasoned/speaking

Whether reportable

Yes/No

Yes/No