

18
SK
Ct. No. 5
08.09.2020

**C.O. No. 1187 of 2020
CAN 1 of 2020 (Old No. : CAN 5953 of 2020)
(Via Video Conference)**

**Latika Biswas
Vs.
Sudhir Biswas & Anr.**

Mr. Dyutiman Banerjee ... For the petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration and is directed against Order No. 101 dated January 13, 2020 passed by the 2nd Court of learned Civil Judge, (Junior Division), Krishnanagar, District Nadia in Title Suit No. 73 of 2012.

The petitioner in the suit is seeking *inter alia* a declaration that she is the legally married wife of defendant no. 1 and the mother to defendant no. 2. In such suit she has applied for DNA Test of defendant no. 2 to prove that she is the mother of the defendant no. 2.

The learned trial Judge by the order impugned has dismissed the said application holding that the suit is running *ex parte* against the defendant no. 2, therefore it will not be possible to conduct the DNA Test of the said defendant.

The petitioner in the suit is seeking the relief of a declaration of her status as legally married wife of the defendant no. 1. The DNA Test as sought for will not be the relevant enquiry for the purpose of determining the said issue. The reasoning of the learned trial Judge in dismissing the said application may not be sound but the ultimate conclusion being correct, this Court is not inclined to interfere with the order impugned.

C.O. 1187 of 2020 is dismissed and the connected application being CAN 1 of 2020 (Old No.: CAN 5953 of 2020) is disposed of.

No order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)