

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

CR No.909 of 2017

Date of decision: 19th April, 2022

Manjit Kaur

... Petitioner

Versus

Inderjit Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Gupta, Advocate for the petitioner.

Mr. Varinder K. Sandhir, Advocate
for respondents No.1 & 2.

None for respondent No.3.

Service of respondent No.4 – dispensed with.

FATEH DEEP SINGH, J.

A civil suit between plaintiff Manjit Kaur (present petitioner) and defendants Inderjit Singh and others (now respondents) for declaration to the effect that the plaintiff is co-sharer in possession of the share of Amrik Singh son of Gurdit Singh of property duly described and depicted in the headnote of the plaint, was pending in a Court of Additional Civil Judge (Sr. Divn.), Patti District Tarn Taran. During the pendency of the suit, an application was moved by plaintiff for conducting DNA test of plaintiff No.1 with defendants No.1 and 2 namely Inderjit Singh and Navindeer Kaur respectively on the grounds that it was necessary to establish whether defendant No.1 was the real

son and defendant No.2 is daughter of plaintiff No.1 or not. The Court of learned Civil Judge (Junior Division), Patti vide impugned order dated 13.10.2016 dismissed the application and that is how the present civil revision has come about by the unsuccessful applicant plaintiff Manjit Kaur.

Upon hearing Mr. Vikas Gupta, Advocate for the petitioner; Mr. Varinder Kumar Sandhir, Advocate for respondents No.1 and 2; and perusal of the records.

The dispute primarily between the parties as is canvassed in the arguments of the two sides is pure for declaration as to the right being a co-sharer in the landed property duly described and depicted in the head note of the plaint. How or by what means holding of a DNA test would determine the right of the parties to this claim in the suit land? Since it is the plaintiff who has come up by filing suit in question, onus lay upon the plaintiff to establish it so through evidence on his own. It needs to be kept in mind that conducting of paternity test by way of DNA analysis cannot be resorted to as a matter of routine, as it not only involves the privacy of the children so claimed to be born out of certain set of parents but would have long term repercussions on the future life as well. It is only where a party has a strong prima facie case, Court needs to exercise such powers and which is based on discretion

after balancing interest of the parties and on due consideration of the claim and counter-claim. The Court is only to adjudicate on the claim over the property and has nothing relevant for determining parentage of the children. This Court seeks support from **‘Shri Banarsi Dass vs. Mrs. Teeku Dutta & another’ 2005(2) RCR (Civil) 666** to hold that it is not a mere casual approach of the parties which is the guiding star in such matters and the fact that there needs to be a prima facie case to dispel the presumption arising out of Section 112 of the Evidence Act. Besides, it is not the prerogative of the Court to compel a party to give sample for such DNA determination and it is the sole sweet will of the party whose sample is to be drawn.

Though learned counsel for the petitioner has sought to seek support from **‘Ram Dayal & others vs. Imarti’ 2016(4) Law Herald 2919**; **‘Neelam Rani and others vs. Smt. Mainka @ Maina Devi & another’ 2014(2) RCR (Civil) 560**; and **‘Marada Venkateswara Rao vs. Oleti Vara Lakshmi & another’ 2008(4) RCR (Civil) 155**, however, this Court on account of factual disparity does not deem it expedient to consider the same. The Court below has given a thoughtful consideration into the matter and has rightly concluded that the matter needs to be decided by way of judicial determination and cannot revolve around DNA test. More so, it is by means of evidence, documentary and

otherwise, which is still to be led would be the determining factor. Such an attempt is nothing short of delaying the proceedings for attaining a sinister and motivated attainment. This Court does not find any illegality or perversity in the findings of the Court below which needs to be upheld. The revision petition being without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

April 19, 2022

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No