

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3189 of 2019 (O&M)
Date of decision: 02.09.2022

Kulvinder Kumar

..Petitioner

Versus

Rimmy (Minor) and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sidhaarth Grover, Advocate, for
Mr. Sartej Singh Narula, Advocate
for the petitioner.

Mr. Gurvinder Arora, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The present revision petition is filed by the petitioner to challenge the interlocutory order passed by the trial court during the pendency of the suit. An application filed for permission to amend the written statement as well as framing an additional issue has been dismissed by the trial Court.

Some peculiar facts are required to be noticed.

The respondents (the plaintiffs) filed a suit for grant of maintenance of Rs.20 Crores alleging that the petitioner (defendant in the suit) is their father. It is claimed that the plaintiffs were born on account of a surrogacy agreement entered into between the defendant and Smt. Meena.

The defendant while filing the written statement stated that if the plaintiffs undergo Deoxyribonucleic acid examination (DNA), he is prepared to pay the maintenance and take them (the plaintiffs) along with him to the U.K. The matter is still pending in the trial Court.

During the pendency of the suit, Dr. Varish Kumar was

examined by the plaintiffs as PW2. During his cross-examination, he stated that the sperm sample for fertilization of oocytes was brought by Sh. Sunil Kumar in the hospital while claiming that the samples belong to Kulwinder Kumar (defendant). Now the defendant wants to take a stand that the plaintiffs are not born from his sperms.

The trial of the case has already made a substantial progress.

Keeping in view the aforesaid facts, it would not be appropriate to permit the defendant to amend the written statement, at this stage. The defendant has already taken a stand in the original written statement that if the plaintiffs undergo the DNA test and it is proved that they are his children, he has no objection to pay maintenance and take them to the U.K. The issue of parentage of the plaintiffs is thus already pending for adjudication before the trial court.

In view of the aforesaid discussion, the revision petition is disposed of with the observations that if ultimately the court comes to a conclusion that the plaintiffs are not the children of the defendant i.e. not conceived by his sperms, the court will pass an appropriate order without standing firm on the strict rules of pleadings.

All the pending miscellaneous applications, if any, are also disposed of.

September 02, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*