

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

CR-5818-2022(O&M)

Date of decision:-9.12.2022

Ramesh Chander Jat and others

...Petitioners

Versus

Ram Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sachin Bhardwaj, Advocate
for the petitioners.

H.S. MADAAN, J.(ORAL)

1. In civil appeal titled as 'Ramesh Chander and others Versus Ram Singh and others' pending in the Court of Additional District Judge, Narnaul, appellant No.1 Ramesh Chander had filed an application for issuance of direction to respondents for giving blood sample for conducting DNA test to establish blood ties between the parties to the appeal.

2. According to the appellant No.1, the plaintiffs/respondents had sought relief of declaration and injunction mainly on the ground that defendants/appellants were not successors of Chajia and Bhikhla sons of Meda son of Bishna rather they were imposters and as such had challenged the legality and validity of mutations sanctioned in favour of defendants/appellants regarding the suit property situated at village Sirohi Bahali.

3. The application was resisted by the respondents contending that appellants had already led evidence on the basis of facts and the application could not be filed before the Appellate Court as there was no provision in the CPC and further application had been filed after 3 years of filing of the appeal to prolong the litigation of the same, therefore, it be dismissed.

4. The First Appellate Court vide the impugned order dated 29.8.2022 had dismissed the application. For ready reference, the operative part which is contained in para No.4 of the order is being reproduced as under:

4. Having heard both the sides and having perused the record at length with the valuable assistance of ld counsel for the parties, it bears out that the parties to the appeal had availed sufficient effective opportunities before the Ld. Trial Court to lead evidence, oral as well as documentary, and it was only after appreciating the evidence brought on the file that Ld. Trial Court decided the controversy in between the parties. Further, it is significant to note that, though the appellants mentioned about their willingness to undergo DNA profiling yet mere just mentioning a simple line in the written statement cannot be considered to be a ground for extending benefit in favour of appellants as indisputably, neither the appellants pressed for undergoing DNA Test before ld. Trial Court nor filed application under consideration within reasonable frame of period in present appeal rather the same has been filed after a consideration gap of around three and half years of filing of

the same. It is well settled principle of law that before ordering any investigation, the Court has to be satisfied that the same shall be necessary for the purpose of adjudication but, in the present case, the matter being a property dispute, the onus was on the appellants/defendants to prove their own case in order to rebut and controvert the claim of the respondents/plaintiffs. Neither scientific investigation was required for the purpose of elucidated evidence nor it is a right conferred upon a party to call upon the Court to order an investigation. Under the garb of present application under consideration, in the considered opinion of this Court, the appellants/defendants are trying to collect the evidence through the process of Court which is not permissible.

5. Such order left appellant Nos.1, 2 and 4 (before the First Appellate Court – herein revisionists) aggrieved they have approached this Court by way of filing a revision petition.

6. I have heard learned counsel for the petitioners besides going through the record and I find that there is no merit in the revision petition.

7. In a civil suit where the parties are at variance on points of difference between them being worked out in the form of framing issues, they are allowed to lead evidence in support of their respective claims and thereafter on hearing arguments advanced on behalf of the parties, the Civil Court at trial level pronounces the decision in the form of judgment. If any of the party feels aggrieved, then he/she can challenge that decision in the form of appeal before District Judge concerned. Then again before

District Judge, there is hardly any occasion to lead evidence though it can be allowed in very exceptional circumstances and after hearing arguments the appeal is to be disposed of.

8. The appellant No.1 has adopted a very strange procedure in moving the application for issuance of direction to respondents for giving blood sample for conducting DNA test to establish blood ties between the parties to the appeal. The relationship is to be established by leading evidence in light of the relevant provisions in that regard and no such direction can be issued to respondents as the appellant/revisionist wants to Court to do.

9. The application is absolutely devoid of any element of merit and it was rightly rejected by the learned Additional District Judge, Narnaul.

10. I find that no fault can be found with the order passed by the Additional District Judge, Narnaul and no reason is there to interfere with the impugned order, which is detailed and well reasoned not suffering from any infirmity and illegality.

11. Thus, finding no merit in the civil revision petition, the same stands dismissed.

Since the main revision petition stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

9.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No