



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.2819 of 2024

and

C.M.P.(MD).Nos.16038 of 2024

Raja

...Petitioner

Vs.

1.S.Thulasimani

2.Esakiammal @ Anushya

...Respondents

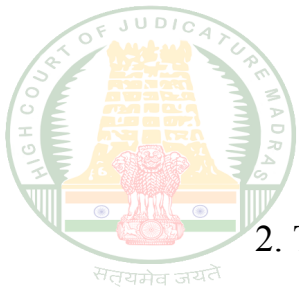
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 10.07.2024 passed in I.A.No.6 of 2023 in H.M.O.P.No.260 of 2018 on the file of the Family Court, Kaniyakumari at Nagercoil.

For Petitioner : Mr.M.P.Senthil

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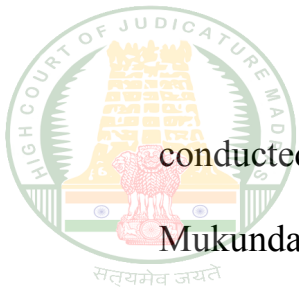
ORDER

This Civil Revision Petition has been filed seeking orders to set aside the fair and decreetal order dated 10.07.2024 passed in I.A.No.6 of 2023 in H.M.O.P.No.260 of 2018 on the file of the Family Court, Kanyakumari at Nagercoil.



2. The first respondent filed a petition in H.M.O.P.No.260 of 2018 before the learned Family Judge, Kanyakumari District at Nagercoil, seeking divorce from the second respondent on the ground of adultery. The petitioner herein is the maternal uncle of the second respondent. Pending the main case, the petitioner filed an application in I.A.No.6 of 2023 under Section 45 of the Indian Evidence Act, 1872, seeking an order for expert opinion by way of a DNA test to determine whether the second respondent's son, namely, Mukundan, was born through the petitioner. The said application was allowed by the trial Court, directing the petitioner, the first respondent, the second respondent, and the minor child to undergo DNA test and the petitioner has to bear the costs.

3. The learned counsel for the petitioner submits that the petitioner is the second respondent in H.M.O.P.No.260 of 2018. The marriage between the first and second respondents was solemnized in 2017, and they were blessed with a male child, Mukundan. The first respondent, however, suspected the paternity of the child and alleged that the petitioner may be the biological father. Accordingly, the petitioner filed the application seeking a DNA test to establish the paternity of the child. While allowing the petition, the trial Court directed all parties, including the first respondent, to undergo the test, which, according to the petitioner, is unwarranted. He submits that the DNA test should only be

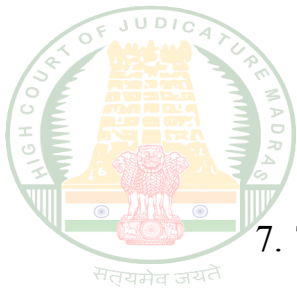


conducted between the petitioner, the second respondent (wife), and the child Mukundan. Hence, the present revision has been filed seeking modification of the said order.

4. Since no adverse orders are going to be passed against the respondents, notice to them is dispensed with.

5. Upon perusal of the trial Court's order and considering the relief sought by the petitioner, this Court finds merit in the contention that the direction to include the first respondent in the DNA test in the context of an application filed by the petitioner is unnecessary for establishing whether the petitioner is the biological father. However, given that the question of paternity is also relevant to the first respondent's plea of adultery in the divorce proceedings, a separate DNA test between the first respondent and the minor child would aid in arriving at a just conclusion.

6. Therefore, to ensure a fair and complete adjudication, and to prevent any miscarriage of justice, this Court deems it appropriate to modify the impugned order by segregating the DNA tests to be conducted in two sets: one between the petitioner, the second respondent (mother), and the minor child Mukundan; and another between the first respondent (alleged father) and the said minor child. The costs for both tests shall be borne by the petitioner, since he is the applicant who sought the expert opinion.



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7. The trial Court is directed to take appropriate steps by addressing the competent authority to conduct the DNA tests and collect the charges from the petitioner. After receiving the report, the trial Court is directed to dispose of H.M.O.P.No.260 of 2018 as expeditiously as possible.

8. Accordingly, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

10.07.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The Family Court, Kaniyakumari at Nagercoil.

2.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI, J.

TSG

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