

M.C.A. No. 01/2018
Durga Vs. Dayashankar

ORDER BELOW EXH.08

(Passed on 8th day of August, 2019)

This is an application filed by the non-applicant under Section 45 of the Indian Evidence act for giving direction to applicant no. 1 on behalf of applicant no. 2 and 3 to refer them undergo to DNA (Deoxyribonucleic) Test for proving the patternity.

It is submitted by the non-applicant that the applicant never married as per case and customs of community with the applicant as alleged by the applicant in the application under Section 125 of Code of Criminal Procedure as there is contention of applicant that she was married with non-applicant on 06/10/2013 and on that date, she was pregnant at month of 6th month. The applicant alledged that she took birth to applicant no. 2 and 3 on 09/02/2013 and 25/12/2014 respectively. Non-applicant denied the marriage as well as the father of applicant no. 2 and 3 as they never lived together by relation as husband and wife. It is necessary to ascertain the truth fact that whether the applicants no. 2 and 3 are the real children of non-applicant and borned from him to the applicant no. 1 as she demanded maintenance amount from the non-applicant under Section 125 of the Cr.P.C. The applicant suppressed the material fact and trying to claim maintenance illegally for which the applicants are not entitled as per law. Hence, he prayed to pass the order of DNA Test.

Applicant given no objection to conduct the DNA test. Therefore, considering the issue in this matter as the non-applicant challenged the paternity. Therefore, the application needs to be allowed.

Hence, the application is allowed.

The applicant and non-applicant are directed to remain present before the Government Medical College, Nagpur on 19/08/2019 for giving their blood sample conducting the test alongwith applicant no. 2 and 3.

Issue letter to the Dean of Government Medical College, Nagpur accordingly.

It is further directed to the Dean of Government Medical College, Nagpur to inform the parties the date on which they shall remain present for collecting their blood sample.

It is further directed that conduct the DNA test and report be sent to the court as early as possible.

Hingna.
Date : 07/02/2019.

Sd/-
(N.K. Meshram)
Civil Judge Jr. Division,
Hingna.