

KAMS710008732012



IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND
JMFC AT T.NARASIPURA

Dated this the 13th day of November 2025

Present: **Smt. Niveditha N., B.A.L., LL.B, LL.M.,**
I Additional Civil Judge & JMFC., T.Narasipura.

Crl.Misc./332/2012

Applicant: **Smt.Doddamma**
..... Petitioner

V/s

Opponent: **Narasimharaju**
..... Respondent

i.	Provision under which the application is filed	Order 45 of Indian Evidence Act
ii.	Relief sought for	Appointment of Medical Expert
iii.	The date on which the application is filed	10/10/2022

iv.	Number of the application	-
V.	The date on which the objections are filed by different opponents	10/10/2022
vi.	The date on which the orders were passed on the said application	13/11/2025

Order on application filed U/s 45 of Indian Evidence Act

1. The petitioner has filed this application seeking to appoint medical expert as Court Commissioner.

2. In the accompanying affidavit, the petitioner has stated that the petitioner has filed the present petition U/s 18, 19, 20 and 22 of PWDV Act against the respondent for the reliefs of protection and maintenance orders. The respondent did not taken care and welfare of the petitioner and the children born through him and the respondent is willfully neglected and deserted the petitioner and her children. But, the hopes of the petitioner were stood in vain.

b. Further stated that the respondent during the life time of the petitioner and during the subsisting of legally wedded marriage, has married another women and thereby caused lot

of mental torture and physical assault to the petitioner and to the innocent children. And thereby the respondent has committed domestic violence to the petitioner. The petitioner and her children are facing lot of difficulties towards their food, shelter, clothing, education and such other domestic expenses. The petitioner is not having any sources of income for eke lively hood. But, the respondent by misusing the situation of marriage of the petitioner and respondent in front of the house of the petitioner under a traditional Chappara even without printing the Lagna Pathrike, has taken the ridiculous and bogus defence not only to deny the legal marriage with the petitioner but also deny the blood relationship of the children Yashwanth and Yamuna. Thereby contenting the above petition to defeat the above petition by hook or crook.

c. Further stated that the blood flowing in the body of the petitioner's son Yashwanth is the blood nature of the respondent Narasimharaju. Similarly the blood nature flowing in the body of the petitioner's daughter yamuna is the blood nature of petitioner Doddamma and it is a common medical rule that son will get father's blood nature. The daughter will get mother's blood nature. Hence, for the discovery of

the truth regarding the statement of the respondent that he is married the petitioner as per Hindu customs and rituals, it is just and necessary for appointment of medical expert as Court Commissioner for the DNA test of respondent and petitioner's son. Hence, prays to allow the application.

3. Per contra, the respondent has filed objections to the above application and contended that the petitioner has not come up with a definite case regarding filing of the application to the case on hands appointing medical expert is not warranted and hence the application is not maintainable. He has contended that when there is no relationship, the question of taking care and neglecting does not arise at all. There is no legal and valid ground to proceed in this case and to prove the paternity with the children and marital relationship. Further, in this case, the petitioner, respondent and witnesses have been examined. The petitioner has to prove the living relationship with the respondent that is silent through leading and also evidence. The petitioner has not proved the marital relationship. The children are not the parties in this case, they have already filed separate suit for partition before the Court and it is pending for consideration. The petitioner has to stand on her own leg and also case

foot forth in this case, she cannot make new grounds. Hence, prays to dismiss the application with cost.

4. Heard the argument of counsel for both parties.

5. The following points are arise for my consideration:

1) Whether the application is deserves to be allowed?

2. What Order?

6. Perused the documents available on record.

7. My answer to above points are as under:

Point No.1 : In the Affirmative

Point No.2 : As per final order, for the following:

REASONS

8. Point No.1: The petitioner has filed the above petition U/s 18, 19, 20 and 22 of PWDV Act against the respondent for the reliefs of protection and maintenance. The respondent has not filed objections to the main petition but the counsel for the respondent has cross examined P.W.1 to 3 and the respondent has also given evidence as R.W.1 and got examined 2 witnesses as R.W.2 and 3. The petitioner has

produced Ex.P1 to 9 documents. The respondent has produced Ex.R1 to 10 documents. When the matter is posted for arguments, the petitioner has filed the present application seeking to appoint medical expert as Court Commissioner for DNA test in the case. The respondent has filed objections to the above application.

9. On perusal of the materials available on record, it discloses that the petitioner has filed the above case seeking for the relief of maintenance against the respondent on the ground that, the respondent is her husband and they have got two children. The respondent specifically denied the relationship of the petitioner in the cross examination of P.W.1 to 3. The contention of the respondent is that the petitioner is not his wife and the children of the petitioner by name Yashwanth and Yamuna are not his children. Even in his oral evidence also he denied the relationship of the petitioner and her children.

Sec.45 of Indian Evidence Act read as under:

“When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of handwriting [or finger impressions] the opinions upon that

point of persons specially skilled in such foreign law, science or art, [or in questions as to identity of handwriting] [or finger impressions] are relevant facts.

Such persons are called experts”.

10. In the present case, the respondent specifically denied the relationship of the petitioner and her children. The documents produced by the parties are not sufficient to render justice to the parties in the case. Therefore, the expert opinion in the present case is necessary since the respondent denied the relationship of the petitioner and her children. If the above application is allowed no injustice will cause to the respondent. If the application is dismissed, definitely injustice will cause to the petitioner. In order to adjudicate the matter on merits, the expert opinion is necessary in the case. **Hence, this court proceeds to answer Point No.1 in the Affirmative.**

11. Point No.2: In view of the answer and reasons stated in point No.1, this Court proceed to pass the following;

ORDER

IA filed by the petitioner U/s 45 of Indian Evidence Act is hereby allowed with cost.

[Dictated to the Stenographer, transcribed by her and corrected by me and pronounced in the Open Court on 13th day of November 2025]

**I Addl.Civil Judge & JMFC.,
T.Narasipura.**

C.Mis.332/2012

(Order pronounced in open court vide separate order)

ORDER

IA filed by the petitioner U/s 45 of Indian Evidence Act is hereby allowed with cost.

**I Addl.Civil Judge & JMFC.,
T.Narasipura.**