

MHLA110009902018



ORDER BELOW EXH.233 IN
RCS NO.48/2017
BHARATBAI VS. NAMDEO AND ORS.

1. Read the application and say filed thereon. Perused the records of the case. Heard Ld. Advocate for both sides.
2. This is an application under Order XXVI Rule 10 r.w. Section 151 filed by defendant No.13 for sending the blood samples of plaintiff No.2 to 7 and defendant No.1 to 10 for DNA test.
3. As per the contention of defendant No.13, he is bonafide purchaser of suit property and he has disputed the paternity of plaintiff No.2 to 7 and also has raised the objection regarding the same in his written statement. It is the further contention of defendant No.13, it is not possible for him to establish the paternity of plaintiff as the available records are insufficient to establish the same. Hence, it is prayed to send the samples of plaintiff Nos.2 to 7 and defendant Nos.7 to 10 for DNA test.
4. Plaintiff resisted the application and contended that, defendant No.13 is stranger to the family of plaintiff and plaintiff and defendant No.1 to 10 have obtained the heirship certificate in MA No.231/2016 on 20/02/2017 and they have admitted the relationship of plaintiff and defendant No.1 to 7. This application is filed with intention to delay the matter. Hence, it is prayed to reject the application.
5. Defendant No.1 to 10 resisted the application and contended that, the burden of issue of paternity is casted on plaintiff and plaintiff has to apply for the DNA report. The application is not tenable and it is prayed to reject it.
6. It is pertinent to note here that, the suit for partition and separate possession of the share of plaintiff. The defendant Nos.1 to 10 have not denied their relationship with plaintiffs. Moreover, plaintiffs and defendant No.1 to 10 have also obtained

the succession certificate and defendants have not disputed the paternity of plaintiff Nos.2 to 7. Defendant No.13 is the stranger to the family of plaintiffs and defendant No.1 to 10, therefore, he has no locus-standi to dispute the relationship of plaintiffs with defendant No.1 to 10. So also, the burden is on plaintiffs to prove that plaintiff No.1 is legally wedded wife of deceased Shivaji Rathod and plaintiffs are under obligation to discharge the same and not defendant No.13. Therefore, it is not at all necessary to send the blood samples of plaintiff No.2 to 7 and defendant No.1 to 10 for DNA test. Thus, application is not tenable and deserves to be rejected. Hence, I pass the following order.

ORDER

Application below Exh.233 is rejected.

Dt.:- 10/10/2025

Jt. Civil Judge Sr. Dn., Nilanga.