



2026:CGHC:13424



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 330 of 2026

1 - Santosh Kumar Thakur S/o Late Kansuram Thakur Aged About 49 Years R/o Village Bhedi (Suregaon) Post And P.S. Suregaon District Balod Chhattisgarh, Office Address- Electric Department (P.P. Yard) B.M.Y. Charoda, Zone-01, Charoda, District Durg Chhattisgarh

... **Petitioner(s)**

versus

1 - Rashmi Thakur (Khurshyam) W/o Santosh Kumar Aged About 35 Years At Present R/o B.M.Y. Charoda, Bhilai, Quarter No. 35-A, Railway Colony, Zone-01, Charoda, District Durg Chhattisgarh

2 - Dimple D/o Santosh Kumar Aged About 11 Years At Present R/o B.M.Y. Charoda, Bhilai, Quarter No. 35-A, Railway Colony, Zone-01, Charoda, District Durg Chhattisgarh (Minor Through Legal Natural Guardian Mother Rashmi)

3 - Hariom S/o Santosh Kumar Aged About 9 Years At Present R/o B.M.Y. Charoda, Bhilai, Quarter No. 35-A, Railway Colony, Zone-01, Charoda, District Durg Chhattisgarh (Minor Through Legal Natural Guardian Mother Rashmi)

... **Respondent(s)**

For Petitioner(s) : Mr. Ankush Soni, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Judgment on Board

20/03/2026

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioner against the impugned order dated 12.02.2026 passed by learned First Additional Principal Judge Family Court Durg, District Durg in



Case No. 699/2025, whereby the application filed by the petitioner for DNA examination of the present Respondent No.2 has been rejected.

3. Learned counsel for the petitioner would submit that the respondents are prosecuting an application for grant of maintenance before the learned Family Court, and the petitioner has denied the paternity of Respondent No. 2 and claimed that she is not entitled to any maintenance from him. The petitioner filed an application before the learned Family Court for DNA examination of Respondent No. 2 at the Forensic Science Laboratory, Nacharam, Hyderabad, so that the paternity of Respondent No. 2 could be determined. He would further submit that the learned Family Court has rejected the application on the basis of the affidavit submitted by Respondent No. 1. However, the petitioner has denied that he is the biological father of Respondent No. 2, therefore, the learned Family Court ought to have allowed the application and should have granted DNA examination of Respondent No. 2.
4. I have heard learned counsel for the petitioner and perused the material annexed with the petition.
5. There is no documents filed by the petitioner in the present writ petition as to what was the proceeding before the learned Family Court. It is only the copy of the impugned order as well as the application filed by the petitioner and its reply submitted by the Respondent No.1, before the learned Family Court has been filed. From the aforesaid documents nothing revealed about the nature of the dispute between the parties.
6. From perusal of the order impugned, it further transpires that the learned Family Court has rejected the application considering the affidavit of the Respondent No.1 in which she has specifically stated that during the existence of their marital knot the Respondent No.2 and 3 were born from the petitioner and the petitioner was having access at the relevant point of time. The learned Family Court has also observed while rejecting the application



that at this stage the permission to conduct the DNA cannot be granted.

Meaning thereby the learned family Court has kept open the opportunity to avail the remedy at an appropriate stage.

7. Having considered the entire material produced by the petitioner in the present writ petition, I do not find any perversity or illegality to interfere with the impugned order or to grant permission to the petitioner to conduct the DNA test of the Respondent No.2.
8. In the case of "**Goutam Kundu v. State of West Bengal and Another**", 1993 (3) SCC 418, the Hon'ble Supreme Court dismissed the husband's appeal and refused to direct a blood test. It emphasized that Section 112 of Evidence Act creates a strong presumption of legitimacy where a child is born during a valid marriage, rebuttable only by proof of non-access between spouses at the relevant time, and not merely by demonstrating suspicion or probability via scientific tests. Routinely ordering blood tests would undermine this statutory presumption, disturb family peace, and stigmatize the child and the mother. Scientific evidence cannot be used to bypass the provision of Section 112 of the Evidence Act, rather, Section 112, read with Section 4 of the Evidence Act, debars other evidence to disprove legitimacy except in cases of non-access.
9. Accordingly, this court does not find any scope of interference in the impugned order. The writ petition is liable to be and is hereby **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok