

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).8852/2008

(From the judgement and order dated 13/06/2008 in
of The HIGH COURT OF BOMBAY AT NAGPUR)

CRLWP No. 293/2008

NANDLAL WASUDEO BADWAIK

Petitioner(s)

VERSUS

LATA NANDLAL BADWAIK & ANR.

Respondent(s)

(With appln(s) for stay and permission to file additional documents
and office report)

Date: 08/11/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Satyajit A.Desai, Adv.
 Ms. Anagha S.Desai,Adv.

For Respondent(s) Mr. Manish Pitale, Adv.
 Mr. Wasi Haider, Adv.
 Mr. Chander Shekhar Ashri,Adv.

UPON hearing counsel the Court made the following

O R D E R

Although, a prayer for filing
rejoinder has been made on behalf of the
petitioner, having regard to the facts involved, we
are also inclined to give certain directions while
adjourning the matter for filing rejoinder.

The dispute regarding the paternity
of the child, for whom an amount of Rs.500/- has
been directed to be paid by way of maintenance, was
raised by the petitioner at the very first instance
in his written objection to the application filed
on behalf of the respondent wife under Section 125
Cr.P.C. for maintenance.

The explanation given on
behalf of the respondent wife regarding conception
through the petitioner was accepted by the trial
court as well as the Revisional Court.

However,
the question of paternity was never considered in
the light of the prayer made by the petitioner
before the High Court for conducting a DNA test,
which would have scientifically put an end to the
dispute.

However, we have also been informed
that no amount has been paid by the petitioner
either to the wife or to the daughter in terms of
the order passed by the learned Magistrate.
While we are inclined to consider the petitioner's
prayer for having a DNA test conducted, we are also
of the view that until all dues are paid in terms

of the order passed by the learned Magistrate, such a DNA test cannot be allowed to be conducted.

Accordingly, we adjourn this matter for a period of six weeks for the present, within which time all dues payable both to the wife and the child in terms of the order of the learned Magistrate dated 20th March, 2006, are to be paid by the petitioner.

Thereafter, we shall consider giving directions with regard to the holding of a DNA test of the child to determine her paternity.

List this matter immediately after six weeks.

(Sheetal Dhingra)
Court Master

(Juginder Kaur)
Court Master