

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).183 OF 2020
(ARISING FROM SLP (C) NO(S). 1801/2019)

NOONE MALLIKHARJUN @ MALLIKHARJUN
YADAV @ MALLIKHARJUNA RAO APPELLANT(S)

VERSUS

NOONE DEVI PRIYA RESPONDENT(S)

O R D E R

1. Leave granted.
2. This appeal takes exception to the judgment and order dated 17.09.2018 in Civil Revision Petition No.4093/2018 passed by the High Court of Judicature at Hyderabad for the State of Telengana and the State of Andhra Pradesh (as it then was), whereby the revision application preferred by the appellant against the order passed by the Trial Court (Additional Junior Civil Judge, Nellore) dated 04.06.2018 in I.A. No.498/2015 in O.S. No.259/2015 came to be dismissed. The High Court, accordingly, confirmed the direction given by the Trial Court vide order dated 04.06.2018 for conducting D.N.A. examination as prayed by the respondent.

3. In the present case, the trial Court as well as the High Court have completely glossed over the efficacy of the order passed in the previous suit between the parties including the judgment dated 30.05.2011 in O.S. No.22/2001. Even in the previous suit, the respondent had made application for conducting D.N.A. examination, which was rejected and the matter went right up to the High Court by way of Civil Revision Petition No.4076/2010 and became final. The Court had rejected that request.

4. Be that as it may, in the previous suit the Court had opined about the relationship between the parties - that the plaintiff therein was born to the defendant (in previous suit) but not in the lawful wedlock. In other words, the finding was that the plaintiff was their illegitimate daughter. It is not necessary for us to examine the correctness of that decision in the present proceedings but considering the fact that the relationship between the parties has already been reckoned, the question of entertaining the request for conducting D.N.A. test at the instance of the respondent in succeeding suit does not

arise and ought not to have been countenanced. Hence, the order passed by the Trial Court and affirmed by the High Court is set aside and the subject application moved by the respondent stands rejected.

5. We make it clear that this decision is not an expression of opinion in any other proceedings pending between the parties but is limited to the application for directing D.N.A. examination. Nothing more.

6. The appeal is accordingly allowed. No costs. All pending applications are disposed of.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

NEW DELHI
JANUARY 10, 2020

ITEM NO.24

COURT NO.7

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1801/2019

(Arising out of impugned final judgment and order dated 17-09-2018 in CRP No. 4093/2018 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

NOONE MALLIKHARJUN @ MALLIKHARJUN
YADAV @ MALLIKHARJUNA RAO

Petitioner(s)

VERSUS

NOONE DEVI PRIYA

Respondent(s)

IA No. 13587/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 10-01-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s) Ms. Bina Madhavan, Adv.
Ms. Vasudha Singh, Adv.
M/S. Lawyer S Knit & Co, AOR

For Respondent(s) Ms. K. Radha, Adv.
Mr. K. Maruthi Rao, Adv.
Mrs. Anjani Aiyagari, AOR
Mr. Vinod Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed
order.

In view of the above, pending application(s)
shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)