

CRP 384/2010
BEFORE
THE HON'BLE MR. JUSTICE B D AGARWAL

Heard Mr. P. Mahanta, learned counsel for the petitioner. The respondent has not appeared despite notice.

The revision petition has been filed by the plaintiff challenging the orders dated 18.4.2009 and 25.8.2010 passed by the learned Civil Judge, Sonitpur, Tezpur in Misc. (J) No. 12 of 2007 arising out of Title Suit No. 11 of 2007 and Misc. (J) Case No. 23 of 2009 arising out of Title Suit No. 11 of 2006.

Vide order dated 18.4.2009 the prayer for holding DNA test to decide the paternity of the illegitimate child was rejected by the trial court basically on the ground that the same issue was also raised before the High Court in Criminal Petition No. 212 of 2006. After withdrawal of the criminal petition the plaintiff filed a Misc. (J) Case No. 23 of 2009 for correction of the order dated 18.4.2009 and this prayer has also been rejected.

The prayer was turned down basically on the ground that the earlier dated 18.4.2009 should have been challenged by way of filing a Revision petition.

I find that the view taken by the learned Civil Judge is correct. After withdrawal of the criminal petition the plaintiff could have also filed a fresh petition for DNA test.

Be that as it may, since the suit is pending for the last more than 5(five) years the revision petition is disposed of with the direction to the learned Civil Judge, Sonitpur, Tezpur to dispose of the main suit within a period of four months from the date of production of a certified copy of this order.

If the trial court after receiving some evidence thinks it proper that the DNA test is necessary it may consider the prayer on the basis of an application that may be filed by the petitioner.

With the aforesaid directions the revision petition stands disposed of.