

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1699 of 2019**

1. Ram Sewak Mahto S/o Late Madhusudan Mahto Resident of Mohalla Rajendra Nagar, Gachhi Tola, Ward No. 30, Begusarai, P.s.- Town, Distt.- Begusarai
2. Pintu Kumar S/o Ram Sewak Mahto Resident of Mohalla Rajendra Nagar, Gachhi Tola, Ward No. 30, Begusarai, P.s.- Town, Distt.- Begusarai
3. Chintu Kumar S/o Ram Sewak Mahto Resident of Mohalla Rajendra Nagar, Gachhi Tola, Ward No. 30, Begusarai, P.s.- Town, Distt.- Begusarai

... ..Defendants/Petitioners

Versus

1. Ranjit Kumar Mahto S/o Ram Sewak Mahto Resident of Mohalla Rajendra Nagar, Gachhi Tola, Ward No. 30, Begusarai, P.s.- Town, Distt.- Begusarai
2. Sanjiv Kumar Mahto S/o Ram Sweak Mahto Resident of Mohalla Rajendra Nagar, Gachhi Tola, Ward No. 30, Begusarai, P.s.- Town, Distt.- Begusarai

... .. Respondent/s

Appearance :

For the Petitioner

Mr. Dhanendra Choubey

Mr. Randhir Kumar No.1

For the Respondent/s

: Mr.

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

05-12-2019

The present petition has been filed “*for setting aside the order dated 21.09.2019 passed by Sub Judge 1st Begusarai in T.S.No 101/16 whereby the petition filed on behalf of Defendants/Petitioners under Section 75 read with Section 151 of the C.P.C. for a direction to DNA Test of plaintiffs and Defendant No.1 has been rejected.*”

2. Learned counsel for the petitioners submits that the plaintiffs/respondents have wrongly claimed to be the sons of defendant no.1/petitioner no.1 in the partition suit filed by them.



As a matter of fact, they are sons of the first wife of defendant no.1/petitioner no.1, who had married another person namely Rajendra Mahto of Village Maltipipra, Barauni. It is stated that the plaintiffs/respondents merely are the tenants of the defendant nos. 2 and 3/petitioner nos. 2 and 3. As such, defendants/petitioners filed a petition dated 02.07.2018 under Sections 75 and 151 CPC with a prayer to call for a report of DNA test of plaintiff/defendants and defendant no.1/petitioner no.1.

3. Heard learned counsel for the petitioners and considered the materials on record.

4. A perusal of the impugned order dated 21.09.2010 discloses that as yet no document had been filed by the defendants/petitioners in order to draw an inference that the plaintiffs/respondents are not the sons of defendant no.1/petitioner no.1. On the other hand, documents had been furnished by the plaintiffs/respondents which *prima facie* showed them to be the sons of defendant no.1/petitioner no.1.

5. It is well settled that a direction to obtain DNA test cannot be used as a tool to collect evidence on behalf of the parties, as sought to be done herein.

6. In the above circumstances, this Court finds no



infirmity in the impugned order rejecting the prayer of the
defendants/petitioners. The petition stands dismissed.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.12.2019
Transmission Date	

