

APHC010204952026



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3330]

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO
CIVIL REVISION PETITION NO: 1339/2026

Between:

1. SARADAGA NARASAYYA REDDY, S/O. LATE APPANNA,
AGED ABOUT 83 YEARS, R/O. BONDADA STREET,
VIZIANAGARAM DISTRICT.

...PETITIONER

AND

1. DINGU KANAKA MAHALAKSHMI, W/o. Chittibabu, aged about
56 years, R/o. D.NO.7-42-163/5, Sabbivari Street, Sangivalasa,
Bheemunipatnam, Visakhapatnam.

...RESPONDENT

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to allow this Revision Petition by setting aside the Decree and Order dated 09-01-2026, passed in I.A.No.777/2025 in O.S.No.56/2023 on the file of IV Additional District Judge, Vizianagaram and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings of the suit in I.A.No.777/2025 in O.S.No.56/2023 on the file of IV Additional District Judge, Vizianagaram, during the pendency of the Revision Petition and pass

Counsel for the Petitioner:

1. RAYAPROLU SRIKANTH

Counsel for the Respondent:

1.

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO
CIVIL REVISION PETITION NO: 1339/2026

ORDER:-

The present Civil Revision Petition is filed challenging the decree and order dated 09.01.2026, passed in I.A.No.777 of 2025 in O.S.No.56 of 2023 on the file of learned IV Additional District Judge, Vizianagaram.

2. The respondent herein, who is the plaintiff, filed O.S.No.56 of 2023 for partition of the suit schedule properties. The petitioner herein is the 1st defendant in the said suit.

3. In the said suit, the petitioner herein denied that the petitioner is not a father of the respondent and the respondent was born to the petitioner's elder brother. In order to prove the said contention, that the petitioner is not a biological father of the respondent, the petitioner herein, who is the 1st defendant, filed an application *vide* I.A.No.777 of 2025 under Order XXVI Rule 10-A r/w Section 151 of the Code of Civil Procedure, praying the Court to issue a commission to the concerned qualified scientific person at the Government approved forensic science laboratory and also direct the petitioner and the respondent to undergo a Deoxyribonucleic acid test (hereinafter for short 'DNA) before the commissioner on an urgent basis.

4. Learned IV Additional District Judge, Vizianagaram, *vide* order 09.01.2026 dismissed the said application observing that it is settle

legal proposition that the burden is always on the respondent-plaintiff to prove her case with cogent, oral and documentary evidence and the plaintiff cannot depend on the weakness of defendants.

5. Assailing the said order dated 09.01.2026, the present Civil Revision Petition is filed under Article 227 of the Constitution of India, on the following grounds:

“...5. The reasoning adopted by the trial court that, burden of proof to prove the paternity is on the plaintiff/ respondent, though to some extent is right, but it is obligatory on the part of the petitioner to disprove the same, as the suit is filed for partition of the properties, in which every party is a plaintiff/s and also defendant/s.

6. The trial court should have observed that, the respondent/ plaintiff filed counter refusing to undergo for DNA test, which itself shows the claim of the plaintiff with regard to paternity is false and thereby the trial court should have allowed the petition.

7. The trial court should have observed that, the petition for DNA test, if allowed would go to the root of the matter of the case of the plaintiff.

8. The trial court should have observed that, even if the respondent /plaintiff refuses to accept for DNA test, after the petition is allowed, the court can take adverse inference against the plaintiff...”

6. This Court recently dismissed C.R.P.No.3393 of 2025 by relying on the judgment of the Hon’ble Apex Court in the case of **Aparna Ajinkya Firodia v. Ajinkya Arun Firodia**¹, wherein, the Hon’ble Apex Court held that - *“The question as to whether a DNA test should be permitted on the child, is to be analyzed through the prism of the child and not through the prism of the parents. The child cannot be used as a pawn to show that the mother of the child was living in adultery. It is*

¹ (2024) 7 SCC 773

always open to the respondent-husband to prove by other evidence, the adulterous conduct of the wife, but the child's right to identity should not be allowed to be sacrificed." Further relied on the judgment of the Hon'ble Apex Court in ***Goutam Kundu Vs. State of West Bengal and another***², wherein it is held that the Courts should not order blood tests as a matter of course and the presumption under Section 112 of the Evidence Act that a child born during a valid marriage is legitimate is very strong and the Court emphasized that ordering blood tests without strong reasons may harm the child's reputation and social status. As the Hon'ble Supreme Court has categorically held that unless a strong presumption under the Evidence Act, the child born during the valid marriage should not order blood test as a matter of course.

7. Even assuming that the respondent is not a daughter of the petitioner herein. The petitioner cannot file an application to send the respondent for DNA test particularly when the plaintiff is claiming partition of the suit schedule properties to prove that the respondent is not a daughter of the petitioner. He has to adduce the evidence in any other manner to prove that the respondent is not the daughter of the petitioner. The petitioner cannot seek a DNA test. For whatever reason the trial Court has rightly dismissed the application. Hence, this Court does not find any merit.

² AIR 1993 SC 2295

8. Therefore, the Civil Revision Petition is dismissed with costs of Rs.3,000/- (Rupees three thousand only) that is payable to the District Legal Services Authority within a period of two weeks from the date of receipt of a copy of this order, failing which the trial Court is directed to recover the same and if necessary send the petitioner to the civil prison for a period of two weeks.

As a sequel thereto, interlocutory applications pending if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 01.05.2026

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THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

Civil Revision Petition No.1339 of 2026

01.05.2026

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