



2026:AHC-LKO:1476

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - B No. - 1168 of 2025

Tilak Ram

.....Petitioner(s)

Versus

Deputy Director Of Consolidation, Tehsil,
Shravasti And Others

.....Respondent(s)

Counsel for Petitioner(s)	: Kaustubh Singh, Ashok Kumar Mishra
Counsel for Respondent(s)	: C.S.C., Diwakar Prasad Tiwari

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard learned counsel for the petitioner, learned Standing counsel on behalf of respondent No.1 and Sri Diwakar Prasad Tiwari on behalf of respondent No.2.
2. Since respondent No.s 3, 4 and 5 are proforma parties and petitioner and respondent No.2 are the main contesting parties, hence notices to respondent No.s 3, 4 and 5 are dispensed with.
3. The controversy raised in the present petition is with regard to the order dated 17.11.2025 passed by Deputy Director of Consolidation wherein he has directed that DNA samples of Sadhu Lal, resident of Village Rangarh Gulariha, Pargana and Tehsil Ikauna, District Shravasti as well as Tilak Ram resident of Village Bakwa Da Pure Pasad, Pargana and Tehsil Bhinga, District Shravasti be collected and matched with Sitaram by the Director, State Legal Forensic Laboratory, Lucknow and report be submitted within one month thereafter.
4. It has been submitted that the dispute in the presents pertains to succession of the properties of one Sita Ram. According to the petitioner, Sita Ram had two sons, namely Tilak Ram and Sadhu Lal and after death of Tilak Ram his wife, namely Indrawati had married with Budhram and shifted to another village. It is submitted

that initially mutation in the revenue records was made jointly in favour of Sadhulal and Tilak Ram, sons of Sitaram but subsequently it is stated that Sadhulal had filed an appeal and suppressed the aspect of compromise and sought a declaration that he is himself entitled to the property of Sitaram exclusively and order was passed on 21.1.2024 by the appellate authority.

5. The petitioner thereafter had filed a revision before Deputy Director of Consolidation which is pending consideration and it is during pendency of the said proceedings that the order dated 17.11.2025 has come to be passed. It is during the said proceedings that Sadhulal has raised the question about parentage of Tilak Ram stating that in all probability Tilak Ram was born form Budhram with whom their mother Indrawati had remarried subsequently. The Deputy Director of Consolidation in his zeal to decide the matter has passed the impugned order directing that DNA samples of Sadhulal and Tilak Ram be collected and report be submitted in this regard.
6. Both the counsel have jointly informed this Court that no such application was filed by either of the parties for conducting DNA test and the impugned order has been passed *suo moto* by the Deputy Director of Consolidation himself. Accordingly, there is no dispute that the matter can be decided on the basis of the evidence available on record and none of the parties insist that DNA test should be done to verify the parentage of both the parties.
7. Apart from the above, we find that there is substantial material already available on record on the basis of which the dispute can be decided. It is noticed that there are two sale deeds which are available on record dealing with the aspect of parentage, copy of the family register and voter list are available on record and there are several revenue records pertaining to various fasli years filed by either of the parties claiming their rights to the property of Sita Ram. Accordingly, it is submitted that it is not a case where there is no material available on record and the matter could have been decided

only after adducing those evidence but it seems that substantial evidence is available on record which has been adduced by either of the parties. It is on the basis of such evidence that the matter ought to have been decided.

8. This Court also is of the view that the order for DNA test cannot be passed routinely. Only in rarest of rare cases where there is no other cogent and reliable evidence available on record that with the consent of the parties such order can be passed as DNA test and its result also involves right to privacy of the parties concerned. Hon'ble Supreme Court in the case of **Ashok Kumar Vs. Raj Gupta and others, (2022) 1 Supreme Court Cases 20** has held as under:-

"12. It was also the view of the Court that normal rule of evidence is that the burden is on the party that asserts the positive. But in instances where that is challenged, the burden is shifted to the party, that pleads the negative. Keeping in mind the issue of burden of proof, it would be safe to conclude that in a case like the present, the Court's decision should be rendered only after balancing the interests of the parties, i.e, the quest for truth, and the social and cultural implications involved therein. The possibility of stigmatizing a person as a bastard, the ignominy that attaches to an adult who, in the mature years of his life is shown to be not the biological son of his parents may not only be a heavy cross to bear but would also intrude upon his right of privacy.

13. DNA is unique to an individual (barring twins) and can be used to identify a person's identity, trace familial linkages or even reveal sensitive health information. Whether a person can be compelled to provide a sample for DNA in such matters can also be answered considering the test of proportionality laid down in the unanimous decision of this Court in K.S Puttaswamy v. Union of India⁵, wherein the right to privacy has been declared a constitutionally protected right in India. The Court should therefore examine the proportionality of the legitimate aims being pursued, 52019 (1) SCC 1 i.e whether the same are not arbitrary or discriminatory, whether

they may have an adverse impact on the person and that they justify the encroachment upon the privacy and personal autonomy of the person, being subjected to the DNA Test."

9. Same view has been reiterated in recent case of ***Ivan Rathinam V. Milan Joseph*** passed by Supreme Court in ***Criminal Appeal No.413 of 2025*** on 28.1.2025.
10. In light of the above, the writ petition is **allowed**. Impugned order dated 17.11.2025 is set aside.
11. Deputy Director of Consolidation is directed to consider and decide the matter on merits as well as relying upon the material available on record in accordance with law.
12. As requested by the parties, let the matter be decided expeditiously, say within a period of four months from the date a certified copy of this order is placed before him, in accordance with law.

(Alok Mathur,J.)

January 8, 2026

RKM.