

Akilandeswari Vs Malathi

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Court : Chennai

Decided On : Mar-27-2026

Judge : Honourable Mrs.Justice T.V.Thamilselvi

Appeal No. : CRP/5754/2025

Appellant : Akilandeswari

Respondent : Malathi

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI CRP No. 5754 of 2025 & CRP NO. 5755 OF 2025 AND CMP NO. 28622 OF 2025 & CMP NO. 28619 OF 2025

1. Akilandeswari W/o. Soundararajan, D.No.23-11, Azhagiri St, (Part of K.K. Nagar) MGR Nagar, Chennai 78.

2. Chithara W/o. Ezhumalai, D/o. Selvaraj, D.No.157, Main Road, Perumbakkam, Villupuram Dt.

3. Soundararajan S/o. Selvaraj, D.No.23-11, Azhagiri St, (Part of K.K. Nagar) M.G.R. Nagar, Chennai 78.

4. Vatchala W/o. Shanmugam, D/o. Selvaraj, 3-9, Neduntheru, Koliyanur and Post, Villupuram Dt. ..Petitioner(s) Vs Malathi S/o. Nandhagopal, School St, Aandipalayam, Kongarayanur Post, Panruti Taluk, Cuddalore Dt. ..Respondent(s) Page1 of 7

CRP No. 5755 of 2025 Karthick @ Soundararajan S/O. Selvaraj Padaiyachi, D.No.23/11, Ayagiri Street, M.G.R. Nagar (K.K.Nagar Area), Chennai - 600078. ..Appellant(s) Vs Hari Prabakaran S/O. Karthick @ Soundararajan, Muthalamman Kovil Street, Aandipalayam Village, Konjarayanoor Post, Panruti Taluk. ..Respondent(s)

PRAYER IN CRP No. 5754 of 2025 Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the order and decree dated 11.09.2025 made in IA No.4 of 2022 in OS No.422 of 2020 passed by the learned Sub Court, Panruti. PRAYER IN CRP No. 5755 of 2025 Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the order and decree dated 09.09.2025 made in IA No.191 of 2021 in OS No.402 of 2020 passed by the learned Sub Court, Panruti. In both CRPs For Petitioner(s): Mr.S.Sathish Rajan

For Respondent(s): Mr.K.Moorthy

COMMON ORDER

Challenging the impugned orders passed in I.A.No.4 of 2021 and I.A.No. 191 of 2024 in O.S.No.422 of 2020 and O.S.No.402 of 2020 by the learned Sub-Judge, Panruti, Cuddalore District respectively, the Revision Petitioners preferred these Civil Revision Petitions. Page2 of 7 2.Before the trial court, there were two suits filed seeking for the relief of partition. The respondent Malathi in O.S.No.422 of 2020 claimed herself as wife of one Karthik @ Soundararajan and she also

contended that out of marriage between them, she begotten a male child viz., Hari Prabakaran. But the said Karthik @ Soundararjan is disputing the alleged marriage as well as paternity of the child. Therefore, both of them filed applications to take D.N.A. test in I.A.Nos. 191 of 2021 and 04 of 2022. Both applications were allowed by the trial judge on hearing both sides. Aggrieved over that, the revision petitioners have preferred these Civil Revision Petitions.

3. The learned counsel for revision petitioners would submit that the

order passed by the trial judge allowing the applications as such is not necessary

to prove his paternity, however, it requires other relevant documents, but without considering the same, the trial judge erroneously allowed the applications. In support of their contentions, the learned counsel relied on the ratio laid down in the following authorities :- (i) Reported in 2022 (1) SCC 20 in the case of Ashok Kumar vs. Raj Gupta and others, wherein it has been held in para 15 as follows :-

15. DNA is unique to an individual (barring twins) and can be

used to identify a persons 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 (Aashaar -5 J.)

Page3 of 7

vs. Union of India reported in 2019 (1) SCC 1, 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 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. ii) Reported in 2025 SCC Online 175 in the case of Ivan Rathinam vs. Milan Joseph, wherein it has been held in paras 30, 31 and 47 as follows :-

30. It is only when such an assertion is made, that the Court can

consider the question of ordering a DNA test to establish paternity. In Goutam Kundu vs. State of W.B. (supra), this court laid down the following parameters to decide whether a court can order a DNA test for the purposes of Section 112 :

(1) that courts in India cannot order blood test as a matter of course;

(2) wherever applications are made for such prayers in order to have roving inquiry, the prayer for blood test cannot be entertained.

(3) There must be a strong prima facie case in that the husband must establish non-access in order to dispel the presumption arising under Section 112 of the Evidence Act.

(4) The court must carefully examine as to what would be the consequence of ordering the blood test; whether it will have the effect of branding a child as a bastard and the mother as an unchaste woman.

(5) No one can be compelled to give sample of blood for analysis. Page4 of 7

31. These parameters have been subsequently followed by this court in Sharda v. Dharmpal (supra) and Babani Prasad Jena v. Orissa State Commission for Women (Supra.) In these cases, it was

held that DNA tests may be ordered, only if a strong prima case of

non-access is made out, with sufficient material placed before the court to arrive at a decision. 32

47. First and foremost, the courts must, therefore, consider the

existing evidence to assess the presumption of legitimacy. If that evidence is insufficient to come to a finding, only then should the court consider ordering a DNA test. Once the insufficiency of evidence is established, the court must consider whether ordering a DNA test is in the best interests of the parties involved and must ensure that it does not cause undue harm to the parties. There are thus, two blockades to ordering a DNA test : (i) insufficiency of evidence; and (ii) a positive finding regarding the balance of interests.

By submitting the aforesaid ratios, the learned counsel argues that at the stage of the commencement of trial, the filing of applications for D.N.A. test as such is unwarranted one and only after the completion of trial, the trial judge ought to have found whether the DNA test is necessary or not and also ought to have found when the court has to order for DNA test. Therefore, at this stage, allowing the applications to grant permission for DNA test as such is illegal and liable to be set aside. Page5 of 7

4. Heard and considered rival submissions made on either side and perused the materials available on record.

5. Furthermore, on seeing the facts, it reveals that from the beginning

itself, Karthik @ Soundararajan is disputing the marriage as well as paternity of the child. As on date, Hari Prabakaran is aged about 18 years and all these days, they are fighting between them also paternity of child. Therefore, the DNA test is necessary to prove the defence raised by the respondent Malathi. Hence, the authorities relied on by him is not applicable to the facts of the case. Accordingly, the findings rendered in I.A.Nos.191 of 2021 and 4 of 2022 by the Sub-Judge, Panurti are confirmed and these Civil Revision Petitions are dismissed. No costs. Consequently, connected civil miscellaneous petitions are closed. 27-03-2026
Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No RPP To The Sub-Judge, Panruti. Page6 of 7
T.V.THAMILSELVI J. RPP CRP No. 5754 of 2025 & CRP NO. 5755 OF 2025 AND
CMP NO. 28622 OF 2025 & CMP NO. 28619 OF 2025 27-03-2026 Page7 of 7

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