

KAUP030061332022



IN THE COURT OF THE IV ADDL. CIVIL JUDGE AND J.M.F.C. UDUPI

**Present: Sri Jeethu R.S., B.A.L., LL.M.
IV Addl. Civil Judge & J.M.F.C., Udupi.**

Dated: This the 18th of April, 2024

OS No.963/2022

Rauf Mohamed,
Aged about 60 years,
S/o. T.S. Abdulla Saheb,
R/at 5-50-1, Maskan Khadeesh,
Railway Station Road, Indrali Masjid,
Udupi Taluk and District.

....PLAINTIFF

(Rep. by M.I. Advocate,)

-versus -

1. The State of Karnataka
Rep by the Deputy Commissioner,
Udupi District, Udupi.
Rajathadri, Udupi Taluk & District.
2. Deputy Director for Public Education,
Rajatadri, Manipal,
Udupi Taluk & District.
3. Head Master,
Govt. Primary School,
Kodi Bengre,
Udupi Taluk & District.
4. Principal,
Govt, Junior College, Kemmannu,
Udupi Taluk & District.

5. The Secretary,
Karnataka Secondary Education
Examination Board, 6th Cross road,
Malleshwaram, Bangalore – 560003.
6. The Director,
Department of Pre University
Education, Bangalore.

..... **DEFENDANTS**

(Defendant No.1 to 6 Rep. by A.D.G.P)

Date of institution of the suit	:	23-11-2022
Nature of the Suit	:	Declaration
Date of the commencement s of the recording of the evidence	:	21-7-2023
Date on which the Judgment was Pronounced	:	18-04-2024
Total Duration	:	Years Months Days
		01 04 25

(Jeethu R.S.)
IV ACJ and J.M.F.C., Udupi.

JUDGMENT

The plaintiff has filed this suit for declaration. It is sought to declare that the name of plaintiff as "**Rauf Mohamed**" and further sought for consequential relief of rectification of plaintiff name as mentioned above in the S.S.L.C., marks card and PUC marks card of plaintiff.

Brief facts of the case

2. The brief facts of the case of the plaintiff in a nutshell is as follows: It is pleaded in the plaint that the plaintiff born on 20-9-1961 at Kodi, Brahmavara Taluk, Udupi District. The incident of birth was entered in the Register of Births and Deaths maintained by Tahasildar, Brahmavara Taluk Udupi District. Accordingly, the plaintiff's name is Rauf Mohamed, but the defendant No.5 and 6 have wrongly entered the name of plaintiff as Rauf Mohammed in the SSLC marks card and PUC marks card issued by the defendant No.5 and 6 respectively. Hence he has filed the above suit.

It is further pleaded that in the year April 1976 the plaintiff completed his S.S.L.C at defendant No.3 institution and passed in the SSLC Examination conducted by the defendant No.5. Thereafter plaintiff completed his PUC at defendant No.4 and passed in the PUC Examination conducted by defendant No.6. It is further pleaded that the defendant No.5 and 6 have wrongly mentioned the name of the plaintiff in the SSLC marks card and PUC marks card. Therefore, the plaintiff approached the defendants for carrying out the necessary corrections of plaintiff's name in the S.S.L.C certificate and PUC marks card, but in vain. The plaintiff issued legal notice to the defendants which was served on them. In spite of that the defendants have not addressed the grievance of plaintiff. Hence plaintiff has filed the above suit.

3. In response to the summons issued by this Court, the learned A.D.G.P. filed written statement for defendant No.2. Further, the learned A.D.G.P. has also filed a memo dated 30-5-2023 for adoption of written statement of defendant No.2 for the defendant No.1, 3 to 6. The defendants have denied the averments pleaded in the plaint and further contends that the suit is not maintainable either in law or on merits. It is further contended that there are

no mistakes to be rectified by the defendants, and further there is no cause of action for the suit. Further contends that the suit is barred for non compliance of Section 80 of CPC and the above suit is barred by limitation.

4. Upon considering the pleadings of the parties, this Court has framed the following issues:

1. Whether the plaintiff proves that, name of plaintiff is **"Rauf Mohamed"**?
2. Whether the plaintiff further proves that, the defendants have wrongly entered the name of plaintiff as "Rauf Mohammed" in the SSLC marks card and PUC marks card?
3. Whether the suit is barred by limitation?
4. Whether the plaintiff is entitled for the relief as sought in the plaint?
5. What order or decree?

5. In order to substantiate the plaintiff's case, the GPA holder of plaintiff has examined himself as PW.1 and got marked 9 documents, marked as Ex.P1 to Ex.P9. On the other hand, the defendants have not adduced any evidence in support of their pleadings in the written statement.

6. Heard arguments of both the counsels.

7. My findings on the above said issues are as follows:-

- Issue No.1 : In the Affirmative.
- Issue No.2 : In the Affirmative.
- Issue No.3 : In the Negative.
- Issue No.4 : In the Affirmative.
- Issue No.5 : As per the final order

REASONS

8. **ISSUES No. 1, 2 and 4:-** As the issue No.1, 2 and 4 are inter-linked to each other, to avoid repetition of facts, they are taken together for discussion. In order to prove the case of the plaintiff, the plaintiff has examined himself as PW.1 and has filed affidavit in lieu of Examination in Chief and got marked the documents as Ex.P1 to P9, Ex.P1 is the birth certificate of plaintiff dated 11-08-2021, Ex.P2 is the legal notice dated 25-11-2021 issued by defendant No.2, Ex.P3 is the 6 postal receipts. Ex.P4 to 6 are the 3 postal acknowledgments. Ex.P7 is the notarized copy of Aadhar card of plaintiff, Ex.P8 is the notarized copy of S.S.L.C marks card of plaintiff, Ex.P9 is the GPA. PW1 has given clear and detailed evidence in respect of the contents of the said documents. Further, during the course of cross examination of PW.1 by learned A.D.G.P., nothing is elicited to disprove the case of the plaintiff.

9. On perusal of the records, Ex.P1 is the birth certificate of plaintiff issued by defendant No.2, which discloses the name of plaintiff as "Rauf Mohamed". According to PW.1, plaintiff's name is wrongly entered in SSLC certificate and PUC marks card. In order to show the correct name of plaintiff, PW.1 has produced Ex.P1 and 7 i.e., birth certificate and Aadhar card of plaintiff. The learned counsel for the defendants cross examined the PW.1, wherein he clearly deposed that name of plaintiff as "**Rauf Mohamed**". In support of his contention PW1 has relied upon the Ex.P1 and 7. These documents are sufficient to believe the contention of the P.W.1, that his father-in-law's correct name is "**Rauf Mohamed**". But in the SSLC marks card and PUC marks card plaintiff's name is wrongly mentioned as "Rauf Mohammed". If the correct name of the plaintiff as "Rauf Mohamed" and if it is not rectified in the SSLC marks card and PUC marks card, it would be

hardship to the plaintiff. Therefore, it is necessary to rectify the correct name of plaintiff in the SSLC marks card and PUC marks card. But the plaintiff has not produced the PUC marks card before the court to show the alleged wrong entry of his name in the said marks card. Any how the plaintiff has got issued the notice as per Ex.P2 to defendant No.6 wherein he has sought for rectification of his name in the PUC marks card. Even the defendant No.6 has not taken any specific contention in respect of the name entered in the PUC marks card of plaintiff. Therefore, an inference has to be drawn in favour of plaintiff regarding the wrong mentioning of his name in his PUC marks card.

10. The Court can take judicial notice of the fact that some times, parents/relatives while giving information to the defendant No.5 and 6 give vague information without meticulously knowing the consequences thereof. Further the said marks cards have been issued 40 years ago. At that time the plaintiff would not have much knowledge regarding the consequences of wrong entry of the name in the academic records. Moreover, in the birth certificate of the plaintiff the correct name is mentioned which has to be taken into consideration for considering the correct name of the plaintiff. Moreover, no hardship would be caused to the defendants, if the name of the plaintiff is ordered to be corrected in the records maintained by the defendants.

Accordingly, the issues No.1, 2 and 4 are answered in the Affirmative.

11. **ISSUE No.3:** On perusal of the records and the plaint, it reveals that recently the plaintiff came to know about the fault and did not have the knowledge of the same earlier. On the other hand, the defendants have only alleged the negligence on the part of plaintiff that even though he had

knowledge about the fault, he failed to make it correct at the earlier stage. The defendants merely alleged that the suit is barred by limitation, but have not made any attempts to prove the said allegations and have not chosen to lead evidence on this behalf and nothing prevented this Court from believing the evidence of PW1. **Hence, the issue No.3 is answered in Negative.**

12. **ISSUE No.5** : In view of my findings to the above issues, I proceed to pass the following :

ORDER

Suit of the plaintiff is decreed.

It is declared that the name of plaintiff is "**Rauf Mohamed**".

The concerned defendants are directed to rectify the name of plaintiff as "**Rauf Mohamed**" in the SSLC marks card and PUC marks card of plaintiff.

Plaintiff has to bear the costs for himself and the defendants.

Draw decree accordingly.

(Dictated to the Stenographer directly through computer, typed by her, corrected and then pronounced by me in open Court, this the 18th Day of April, 2024.)

(Jeethu R.S.)
IV ACJ & J.M.F.C., Udupi.

ANNEXURE**List of witnesses examined for plaintiff :-**

PW1 - Firoz Khan.

List of witnesses examined for defendants :-

None

List of documents marked for the Plaintiff :-

Ex.P1	-	Birth certificate of plaintiff.
Ex.P2	-	Legal notice.
Ex.P3	-	6 postal receipts.
Ex.P4 to 6	-	3 postal acknowledgments.
Ex.P7	-	Notarized copy of Aadhar card of plaintiff.
Ex.P8	-	Notarized copy of S.S.L.C marks card of plaintiff.
Ex.P9	-	GPA.

List of documents marked for defendants :- NIL

(Jeethu R.S.)
IV ACJ & J.M.F.C., Udupi.