



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
VIRAJPET.**

Dated this the 23rd day of June, 2026.

PRESENT

Sri. Manjunatha R., **BAL, LLB,**
Senior Civil Judge & JMFC, Virajpet.

R.A.No.20/2024

APPELLANT:

Sri. M.S.Abhinav,
Son of Sri.Shivappa M.A.
Aged 41 years,
R/o # H.No.12/88,
Murnad Road,
Chickpet, Virajpet,

(By Sri.M.T.Chinnappa, Adv.,)

-Vs-

RESPONDENTS:

1. The Chief Officer,
Town Municipal Council, Virajpet
Virajpet Taluk,
Kodagu District.

2. The Deputy commissioner,
Kodagu-Madikeri. 571 201.

3. The Chief Secretary.
Government of Karnataka.
Vidhana Soudha, Bangalore.

**(R.1 by Sri.D.C.Dhruva Kumar,
R.2 and 3 Exparte).**



Nature of the decree
appealed against

:The Judgment and Decree
passed in O.S.No.99/2023 by
the Addl. Civil Judge & JMFC.,
Virajpet, on 02.03.2024.

Date of institution of
Appeal

: 06.11.2024

Date on which the
Judgment is pronounced :

23.06.2026

Duration of appeal

: Year/s Month/s Day/s

01 07 17

Sd/-xxx
(Manjunatha R),
Senior Civil Judge & JMFC,
Virajpet.

:J U D G M E N T:

This is a plaintiff appeal. The plaintiff has filed this appeal, challenging the Judgment and Decree dated 02.03.2024 passed in O.S.No.99/2023 by the Addl. Civil Judge & JMFC, Virajpet, in dismissing the suit filed by him seeking for the relief of declaration and mandatory injunction.

2. For the sake of convenience, the parties herein will be referred to with their ranking assigned before the Trial Court. The appellant was plaintiff and respondents were the defendants.



3. The substance of the plaintiff's case before the trial Court is as follows :- The plaintiff was born on 16.10.1982 at Chickpet, Virajpet. His father's name is Shivappa M.A. and mother's name is Kaveramma M.S. The plaintiff's correct date of birth is mentioned in his Aadhar Card, PAN Card, S.S.L.C. Marks card and Voter I.D.Card. The defendant No.1 has issued birth Certificate to the plaintiff and in the said certificate his date of birth is wrongly mentioned as 14.09.1982. The plaintiff approached the defendant No.1 on 17.07.2023 for rectification of wrong entries. But the defendant No.1 has expressed his inability to rectify the same. Hence, the plaintiff has issued legal notice to the defendant No.1 and same was served on him. But, he has not taken any action to rectify the same. Hence, the plaintiff has constrained to file the suit before the trial Court.

4. Upon receipt of the suit summons, the defendants entered their appearance before the Court through AGP. The defendant No.1 filed written statement and other defendants adopted the same by filing memo. In the written statement, the defendant No.1 has contended that the plaintiff was born in Divya Darshan Nursing Home, Virajpet. As per the details sent by the hospital authority the particulars are recorded in the birth certificate of plaintiff. The information regarding date of birth, gender



and father name, mother's name were furnished by the parents of the plaintiff and as per the said information same has been entered in birth Register by the defendant No.1. The plaintiff has not approached the defendant No.1 for rectification of date of birth in the birth and death Register. As per the legal notice caused by the plaintiff, this defendant has not replied since this defendant on his own cannot rectify the mistakes taken place in the Birth Register. Unless, there is a specific direction from the Court. Hence, prays to dismiss the suit with costs.

5. Based on the rival pleadings of the parties, the Trial Court has framed the following issues :-

1. Whether the plaintiff proves that his correct date of birth is 16.10.1982 and not 14.09.1982 ?
2. Whether the plaintiff is entitled for the relief as sought in the plaint ?
3. What order or decree ?

6. In order to substantiate the case of the plaintiff, he was examined as PW-1 and got marked 14 documents at Ex.P.1 to P.14. On the other hand, the defendants did not lead their evidence. The Trial Court after hearing the arguments on both the counsels and on perusal of oral as well as documentary evidence, answered Issue Nos.1 and 2 in the Negative and dismissed the suit with costs.



7. The plaintiff being aggrieved by the said judgment and decree passed by the Trial Court in so far as dismissal of suit, preferred this appeal on the following grounds:-

8. The Trial Court has sidelined the existing facts relating the issues involved before the Court and has given a Novel thought and idea which proposition are not at all correct and judicious. The Trial Court has not taken into consideration the evidence of the appellant and the documents produced by him. The defendants have not taken any such strong objections in correcting the date of birth and also issuance of the Birth Certificate to the appellant and as such the Trial Court in dismissing the suit by quoting untenable grounds does not survive since the appellant has not suppressed any truth before the Trial Court and he has spoken the truth and also produced documents which reciprocates the truth of such date of Birth. That the defendants have not contested the case on merits and tendered any such documents on their behalf nor any of the defendants have turned before the Court and given their evidence. Even in-spite of the said fact the trial Court has dismissed the suit which is not in accordance with law. The Trial Court has gone to the extent of dismissing the suit of the plaintiff and caused great hardship and injury to the appellant.



9. The Trial Court has not gone through the stand taken by the appellant and also not understood the need of filing of the suit before the Trial Court for seeking necessary help from the Court for the mistake which has occurred and crept in the documents such as Aadhaar Card, Pan Card , SSLC Marks Card, and Voters ID Card and other documents were produced for kind perusal. The Trial Court has arrived at a conclusion which is improper, incorrect, and not judicious and not in accordance with law and as such it has to be set aside and looked into by this Court. The Trial Court has erred that the appellant is not entitled to get the date of Birth corrected through this Court and thereby get valid documents updated in accordance with law. The Trial Court has gone to the extent of answering all the issues in favour of the respondents and it has not discussed the matter in length and not a whisper is made about the stand of the appellant taken in the said case or the evidence of the witnesses. The Trial Court has gone to the extent of supporting the respondents. The Trial Court Judgment and Decree is not in accordance with law, one sided, arbitrary and as such liable to be set aside. It has not opined or discussed how it has arrived at the said conclusion. The Trial Court ought to have passed necessary orders in his favour instead it has passed an incomplete order. On these grounds prays to allow the appeal by decreeing the suit.



10. In pursuance of service of notice, the respondent No.1, is appeared through his respective counsel. Other respondents are remained absent, hence they set at ex-parte. The trial Court records are secured.

11. I have heard the arguments addressed by the learned counsel appearing for appellant. In spite of giving sufficient time the counsel for respondent No.1 did not address the arguments. Hence, arguments of respondent No. 1 is taken as nil.

12. In the light of the dispute between the parties, the contentions urged before me and the grounds of appeal, the points that arise for my consideration in this appeal are as under :-

1. Whether the finding of the Trial Court that the plaintiff has failed to prove that his correct date of birth is 16-10-1982 and not as 14-09-1982 is justified?

2. Whether the judgment and decree passed by the Trial Court calls for interference in this appeal?

3. What Order or decree ?

13. Having heard the arguments of the learned counsel for appellant my findings on the above points are as follows:-



Point No.1:- In the Negative.

Point No.2:- In the Affirmative.

Point No.3:- As per the final order
for the following

:R E A S O N S:

14. POINT Nos.1 and 2:- These two points are interconnected, hence in order to avoid the repetition of facts these points are taken up for common discussion.

15. On perusal of the Trial Court records it appears that the plaintiff has filed the suit seeking for declaration to declare that his date of birth is 16.10.1982 and direct the defendant No. 1 to rectify the wrong entries made in the birth and death register maintained by him by deleting the date of birth of the plaintiff as 14.09.1982 and insert correct date of birth as 16.10.1982. According to the plaintiff, he was born on 16.10.1982 and his correct date of birth is mentioned in his Aadhar card, PAN card, Marks card and Voter ID card. The defendant No.1 has issued birth certificate to the plaintiff by mentioning his date of birth as 16.10.1982. In spite of approach made by him before the defendant No.1, he has expressed his inability to rectify the same, which made him to file this suit. Per contra, in the written statement the defendant No.1 has denied the entering of wrong date of birth of plaintiff in birth and death register maintained by him. According to



the defendant No.1 as per the information given by the Hospital Authorities the date of birth of plaintiff was entered in the birth and death register extract.

16. To prove and substantiate their respective contentions, the plaintiff was examined before the Trial Court as PW-1 and produced birth certificate, legal notice, postal receipt and acknowledgment, application given to the defendant No.1, study certificate, SSLC marks card, PUC marks card, degree marks cards, Aadhar card, PAN card and election ID card at Ex.P-1 to P-14. The defendants did not choose to adduce evidence. The learned Trial Court, by appreciating all these oral and documentary evidence adduced by the plaintiff, dismissed the suit filed by the plaintiff with costs. It is this judgment, which is under challenge, in this appeal by the plaintiff.

17. For his success in the suit and also in this appeal, it is incumbent on the part of the plaintiff to prove and establish that he was born on 16.10.1982 and the defendant No.1 while issuing his birth certificate, his date birth has wrongly mentioned as 14.09.1982 instead of 16.10.1982. The plaintiff claims that he was born on 16.10.1982 at Divya Darshan, nursing home, Virajpet and said date is mentioned in Aadhar card, PAN card, SSLC



marks card and Voter identity card. In order to prove the same the PW-1 has produced birth certificate issued by the defendant No.1 at Ex.P-1. In the said document, the date of birth of plaintiff has been mentioned as 14.09.1982. The study certificate issued by the Head master of Vinayak English School, Meenpet, Virajpet at Ex.P-6, the plaintiff date of birth of is 16.10.1982. The SSLC marks card, PAN card, Aadhar card and election identity card produced at Ex.P-7, 12 to 14 clearly depicts that the plaintiff was born on 16.10.1982. The Ex.P-1 was issued on 21.07.2023. Prior to issuance of Ex.P-1 the public documents and educational documents of plaintiff clearly depicts his date of birth is on 16.10.1982. In the Ex.P-1 the defendant No. 1 while entering into the date of registration the correct date of birth is mentioned, but in the date of birth column the date was wrongly mentioned as 14.09.1982. Except in the Ex.P-1 birth certificate in all other public documents as well as school documents the date of birth of plaintiff has been correctly mentioned as 16.10.1982. As per Ex.P-2 the plaintiff caused legal notice to the defendant No.1 to rectify his date of birth in the Ex.P-1 and issue fresh birth certificate. The said notice was served to the defendant No.1 as per Ex.P-4 postal acknowledgment. In spite of receipt of notice the defendant No. 1 failed to comply the same.



18. The AGP cross examined PW.1. In the cross-examination PW.1 has stated that, as per the school records he was born on 16.10.1982 and in the Ex.P-1 his date of birth is wrongly mentioned as 14.09.1982. Further stated that for rectification of date of birth, he has given notice to the defendant No.1 as per Ex.P-2. In the cross-examination, the learned AGP has failed to put forth the defence set up by the defendant No.1. Further in order to substantiate the written statement averments the defendant No. 1 did not adduce oral as well as documentary evidence.

19. On perusal of oral as well as documentary evidence adduced by the plaintiff, it appears that the plaintiff was born on 16.10.1982 at Divya Darshan, Nursing home, Virajpet. The plaintiff applied for issuance of birth certificate before the defendant No. 1. After receipt of representation the defendant No.1 has approved the request of the plaintiff and entered his date of birth in the birth and death register and issued birth certificate at Ex.P-1 on 21.07.2023. The defendant No. 1 while entering the date of birth of plaintiff in the birth and death register, the date of birth of plaintiff was wrongly mentioned as 14.09.1982 instead of 16.10.1982. The Ex.P-1 was issued on 21.07.2023. The study certificate, SSLC marks card, PAN card, Aadhar card and election



identity card produced at Ex.P-6, 7, 12 to 14 clearly indicates that the plaintiff was born on 16.10.1982. The defendant No.1 without looking into the date of birth of plaintiff mentioned in the SSLC marks card as well as public records, wrongly mentioned the date of birth of plaintiff as 14.09.1982 in the birth and death register and issued Ex.P-1. The plaintiff by placing documentary evidence as proved that his correct date of birth is 16.10.1982 and not 14.09.1982. The Trial Court without appreciating the documents produced by the plaintiff, has wrongly come to the conclusion that the plaintiff has not approached the Court with clean hands and there are deficiency in the pleadings. Further has wrongly held that, the plaintiff has utterly failed to establish that his correct date of birth is 16.10.1982 and not 14.09.1982. Therefore, the findings given by the Trial Court that the plaintiff has failed to prove his correct date of birth is 16.10.1982 and not 14.09.1982 is not justified.

20. The Trial Court while passing impugned Judgment has not properly appreciated the pleadings, oral and documentary evidence produced by the plaintiff. The Trial Court totally misconstrued the facts and came to the wrong conclusion in dismissing the suit of the plaintiff. The reasons assigned by the Trial Court in dismissing the suit of the plaintiff is not proper. Therefore, the impugned



Judgment and Decree of the Trial Court is liable to be set a side. In view of the above discussions this Court answered Point No.1 in the **“Negative”** and Point No. 2 in the **“Affirmative”**.

21. Point No.3:- In view of the reasons, while answering above points, I proceed to pass the following;

ORDER

The Regular Appeal filed by the appellant under Order XLI Rule 1 Read with Section 96 of CPC, is hereby allowed.

Consequently the judgment and decree passed by the Addl. Civil Judge & JMFC, Virajpet in O.S.No.99/2023 dated 02.03.2024, is hereby set aside.

The suit filed by the plaintiff is hereby decreed.

It is declared that, the date of birth of plaintiff is 16-10-1982.

Further the defendant No.1 is hereby directed to rectify the date of birth of plaintiff in birth and death register maintained by him as 16-10-1982 by granting decree of Mandatory injunction.

The parties shall bear their own costs.

Draw Decree accordingly.

Office is directed to send the Trial Court records along with copy of this Judgment forthwith.



(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **23rd** day of **June, 2026**).

Sd/-xxx
(Manjunatha R),
Senior Civil Judge & JMFC, Virajpet.