

KADG030224752022



Presented on : 12-10-2022
Registered on : 13-10-2022
Decided on : 02-03-2023
Duration : 0 years, 4 months, 21 days

IN THE COURT OF
PRL CIVIL JUDGE AND JMFC AT DAVANGERE
Presided Over by SRI SAMEER KOLLI

O.S./463/2022

Plaintiff:-

Darshan A. Talawar
S/o Ameenappa Talawar,
Aged about 17 years,
Since minor Represented by
natural guardian mother
Smt. Yamunamma,
W/o Ameenappa Talawar,
Aged about 36 years,
R/o 9th Cross, Bharath Colony,
Davanagere City.

(By Smt. Vijayamala S. Mundasada, Advocate)

V/s

Defendants:-

1. The Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru.
2. The Commissioner,
Department of Public Instruction,
Nrupathunga Road, Bengaluru.



3. The Deputy Director,
O/o the Deputy Director,
Department of Public Instruction,
Davanagere.
4. Block Education Officer,
O/o the Block Education Officer,
South zone, Davanagere.
5. Block Education Officer,
O/o the Block Education Officer,
North zone, Davanagere.
6. The Head Master,
Kerebasaveshwara Higher Primary
School, Kabburu Basappa Nagar,
Davanagere- 577003.
7. The Head Master,
Davanagere Cotton Higher Primary
School, P.B. Road, Davanagere.
8. The Head Master,
D.R.R. High school,
P.B. Road, Davanagere.

(Defendant No.1 to 5 : By Dist. Govt. Pleader,
Defendant No.6 : By Sri M. Kumar Naik, Advocate
and Defendant No.7 and 8 : Exparte)

Date of Institution of suit	12-10-2022.
Nature of suit	Declaration and Mandatory injunction.
Date of evidence recorded	14-02-2023.
Date of judgment pronounced	02-03-2023.
Total duration	Years Months Days



	00	04	21
--	----	----	----

-: JUDGMENT :-

The minor plaintiff through his next friend mother has filed this suit seeking the relief of declaration of his caste as “Talawar” instead of “Gangamatha” and also for mandatory injunction.

2. Brief facts that flow from the plaint are as under:-

It is the case of the plaintiff that he has studied 1st to 4th standard in the institution of 6th defendant and 5th to 7th standard in the institution of 7th defendant and 8th and 9th standard in the school of 8th defendant. The plaintiff claims that he originally belongs to Hindu – Talawar caste. The father and mother of the plaintiff while admitting the plaintiff to the school of 6th defendant had given the caste particulars as "Talawar" and inspite of it the caste of the plaintiff is entered as "Gangamatha" in the school records and the same has continued in future records also. It is further pleaded that the plaintiff approached the 6th defendant and requested to change his caste as “Talawar” instead of “Gangamath" but, 6th defendant has not heeded to the request. The plaintiff got issued notice U/Sec. 80 of CPC on 30.06.2022 seeking rectification of the caste in favour of defendants and inspite of it, the defendants have not rectified the same. Thus in the light of the above



background, plaintiff has approached this court by way of this suit.

3. Defence of defendants No. 1 to 5:-

Defendant No. 4 has filed written statement and the same is adopted by defendant No.1 to 3 and 5 by filing an adoption memo.

3.1. In the written statement, the above defendants have denied the plaint averments. Substantial defence is that the plaintiff has not approached the District Caste Verification Committee for determination of his caste. The 6th defendant authorities have entered the particulars of the plaintiff as per the information furnished by his parents and in that regard, there is no fault on the part of the 6th defendant in entering the caste of the plaintiff as "Gangamatha". It is lastly contended that this court has no jurisdiction to entertain the captioned suit. Thus, on the above grounds, defendants No.1 to 5 have sought for dismissal of the suit.

4. Defendant No.6 though has entered appearance has not filed written statement. In spite of service of suit summons to defendants No.7 and 8, they have not entered appearance and thus they are placed exparte.



5. Based on the rival pleadings, this court has framed the following issues which are as under:-

ISSUES

- 1) Whether the plaintiff proves that he belongs to Talawar caste and not Gangamata caste ?
- 2) Whether the defendant No.1 to 5 prove that this court has no jurisdiction to entertain this suit ?
- 3) Whether the plaintiff is entitled for the reliefs as sought for ?
- 4) What order or decree ?

6. In order to prove their case, the next friend of the plaintiff got examined herself as PW-1 and got marked 11 documents at Ex.P.1 to P.11 and thereby closed the side. In rebuttal, the defendants No.1 to 6 have not led evidence.

7. Heard learned counsel for the plaintiff and learned District Government Pleader for defendants No. 1 to 5 and learned counsel for defendant No.6

8. Scrutinized the oral and documentary evidence available on record.

9. My findings to the above issues are as under:-

ISSUE No.1 - Answered as redundant,



ISSUE No.2 - In the Affirmative,

ISSUE No.3 - In the Negative,

ISSUE No.4 - As per final order for the following:-

-: REASONS :-

10. Issue No. 2:- As this issue pertains to the point of jurisdiction, it is taken at the first instance for discussion.

11. It is the case of the plaintiff that he belongs to the "Talawar" caste but, the same is wrongly entered as "Gangamata" in the school records of the plaintiff. It is further pleaded that though the plaintiff approached the defendants seeking rectification of the same, the defendants have not heeded to the said request inspite of issuance of notice U/Sec. 80 of CPC. Hence, this suit.

12. Documents produced by the plaintiff:-

Ex.P.1 is the school transfer certificate. Ex.P.2 is the caste certificate issued by Tahasildar, Devarahipparagi Taluk. Ex.P.3 is the Adhar card of plaintiff. Ex.P.4 is the Adhar card of plaintiff's mother. Ex.P.5 is the copy of notice under Sec. 80 of CPC. Ex.P.6 to P.11 are the postal acknowledgements.



13. PW-1 has filed her examination-in-chief by way of affidavit reiterating the contents of plaint. She is fully cross examined by learned counsel for defendants No.1 to 5.

14. Submissions of plaintiff:-

Learned counsel for the plaintiff submitted during the course of his arguments that the plaintiff belongs to "Talawar" caste and his caste is wrongly noted as "Gangamata" in the school records. He further submitted that the parents of the plaintiff belongs to "Talawar" caste and the same has to be rectified by the defendants. He further submitted that inspite of issuance of legal notice U/Sec. 80 of CPC, the defendants have not heeded to the request of the plaintiff and thus the plaintiff is suffering hardship. He further submitted that if the caste of the plaintiff is not rectified, the plaintiff would suffer in future in securing jobs. Thus, he has prayed to decree the suit.

15. Submissions of defendants:-

Per contra, learned District Government Pleader representing defendants No.1 to 5 submitted that the plaintiff has not made out any case that he belongs to "Talawar" caste. He further submitted that in view of the circular of the Government of Karnataka, the jurisdiction of civil court is barred from entertaining such type of suits. Thus, on the above grounds, he has prayed to dismiss the suit.



16. Learned counsel for defendant No.6 has also submitted that the present suit is not maintainable before this court and this court has no jurisdiction to try the present suit. Thus, he has prayed to dismiss the suit.

17. Analysis:-

Having heard the learned counsel for the plaintiff, learned District Government Pleader for defendants No.1 to 5 and learned counsel for defendant No.6, I have bestowed my thoughtful consideration to the rival contentions and also to the oral and documentary evidence placed on record.

18. At the outset, it is significant to note that as per Ex.P.2 which is the caste certificate issued by the Tahasildar, Devarahipparagi taluk of Vijayapur District would disclose that "Talawar" caste false under Category-I of Other Backward Classes. When the said caste of "Talawar" belongs to the Other Backward Classes, the provisions of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointments etc) Act, 1990 (Hereinafter referred to as SCST Act for brevity) would stand attracted.



19. According to the above SC/ST Act, 1990 a committee is constituted to verify the income and caste. Accordingly Section 4-A, 4-B, 4-C and 4-D have been inserted to Section 4 by virtue of the Act 27 of 1997. As per Section 4, a caste verification committee is constituted in all the district to verify the caste and also the income.

20. The said Act further postulates that the Deputy Commissioner of the District will be the Ex-Officio, Chairman and Deputy Secretary (Administration ZP) and Tahasildar of Taluka will be the members and the District Welfare Officers will be the member secretaries. As per Sec. 3(A) of the said Act an application will have to be made to the Tahasildar who will verify the information, documents and such other materials furnished by the applicant and on such verification if he is satisfied with the correctness of the information, documents and proof furnished by the applicant, he will issue a caste certificate in forms D, E or F. If the applicant is aggrieved by the order passed by the Tahasildar, an appeal is provided under Section 4(A) of the said Act and the appeal lies to Assistant Commissioner. When there is a specific mechanism provided under Karnataka Scheduled Castes, Scheduled Tribes and Other Backward classes (Reservation of Appointments etc.) Act, 1990 the jurisdiction of civil court is barred as there is a provision of appeal being provided



under Section 4(B) against an order passed under Section 4(A) by the Tahasildar.

21. The Hon'ble High Court of Karnataka in the case of "The Government of Karnataka, rep., by Deputy Commissioner and others Vs. Kumari Shilpa Shrishail Baragadagi and Another reported in ILR 2014 KAR 5389" has held thus:-

"14. As per the provisions of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointments Etc.) Act, 1990, a committee is constituted to verify the income and caste. The said Act has stood amended by Act No.27 of 1997, which received the assent on 29.09.1997. As per Section 4-A, 4-B, 4-C and 4-D have been inserted to Section 4 by virtue of Act 27 of 1997. As per Section 4, a Caste Verification Committee is constituted in all the districts to verify the caste and also the income. Deputy Commissioner of the district will be the Ex- Officio Chairman and Deputy Secretary (Administration ZP) and Tahasildar of Taluk will be the members and District Welfare Officers will be the member secretaries. As per Section 3(A) of the said Act, an application will



have to be made to the Tahasildar who will verify the information, documents and such other materials furnished by the RSA No.1353/2008 applicant and on such verification if he is satisfied with the correctness of the information, documents and evidence furnished by the applicant, he will issue a caste certificate or income certificate in forms D, E or F. An appeal is provided under Section 4(A) to the Assistant Commissioner.

15. "A specific mechanism is provided under the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointments Etc.) Act, 1990. Hence, Civil Court's jurisdiction is impliedly barred, more particularly, in the light of an appeal being provided under Section 4(B) against an order passed under Section 4(A) by the Tahasildar regarding issuance of caste certificate and income certificate. In this view of the matter, the very suit of the plaintiff is not maintainable in view of inhibition under Section 9 of CPC".

22. A plain reading of the above decision of the Hon'ble High Court of Karnataka clearly postulates that the civil court's jurisdiction is specifically barred from entertaining



such type of suits. It is also significant to note that when this court is not vested with jurisdiction to try such kind of suits, this court cannot go into the merits of the case. The plaintiff has to approach the Caste Verification Committee and get his caste declared as "Talawar" instead of "Gangamata". In view of the above, This court is of the well considered view that Civil Court's are barred from entertaining such suits under Section 9 of CPC. Thus in view of the above discussion, I answer Issue No.2 in the Affirmative.

23. Issue No. 1:- It is the claim of the plaintiff that the Tahasildar, Devarahipparagi Taluk, Vijayapur District has issued Ex.P.2 which is the caste certificate of the parents of the plaintiff stating that they belong to "Talawar" caste. As this court has no jurisdiction to entertain such kind of suits and by virtue of decision of Hon'ble Apex Court referred supra and the mandate of SC/ST Act, Issue No.1 becomes redundant and it is answered accordingly.

24. Issue No. 3:- As this court has no jurisdiction to entertain the captioned suit, the plaintiff is not entitled for the reliefs as sought for. Thus, I answer Issue No. 3 in the Negative.

25. Issue No. 4:- In view of my discussion on issue No. 1 to 3, following order is passed:-



-: O R D E R :-

Suit of the plaintiff being not maintainable as this court has no jurisdiction, the same is hereby DISMISSED WITH COST.

Draw decree accordingly.

(Dictated to the Stenographer directly on the computer, thereof is revised, edited and corrected by me and then pronounced in the Open Court on this the 2nd day of March, 2023.)

(SAMEER KOLLI)
Prl. Civil Judge and JMFC,
Davanagere.

A N N E X U R E

Witnesses examined for the plaintiff/s:-
PW-1 - Yamunamma

Documents marked for the plaintiff/s:-
Ex.P.1 - School transfer certificate
Ex.P.2 - Caste certificate
Ex.P.3 and P.4 - Adhar cards
Ex.P.5 - Copy of notice under Sec. 80 of CPC
Ex.P.6 to P.11 - Postal acknowledgements

Witnesses examined for the defendant/s:-
- Nil -



Documents marked for the defendant/s:-
- Nil -

(SAMEER KOLLI)
Prl. Civil Judge and JMFC,
Davanagere.