

Minor Hitesh Vs. Registrar, Birth and Death, Sonipat & Anr.

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HRSOA00000972025



Presented on : 18-02-2025

Registered on : 18-02-2025

Decided on : 29.07.2026

**IN THE COURT OF
Additional Civil Judge (Senior Division) AT Ganaur, Sonipat
Presided Over by Ms. Mansi Gaur**

CS/80/2025

Minor Hitesh (to be changed to Himanshu) Age 13 years S/o Pawan Kumar through natural guardian R/o Ahir Majra, Ganaur at present living at Rampura, District Jhajjar, Haryana.

.....Plaintiff.

Versus

1. Registrar, Birth and Death cum Secretary Municipal Committee, Ganaur, Tehsil Ganaur, District Sonipat.
2. State of Haryana through its Collector, Sonipat.

.....Defendants

SUIT FOR DECLARATION AND MANDATORY INJUNCTION

Argued by: Sh. Ravi Yadav, Advocate for the plaintiff.
Sh. Sushil Tyagi, Advocate for the defendant No.1.
Sh. Hari Gopal, Ld. GP for defendant No.2.

JUDGMENT:-

The plaintiffs have filed the present suit seeking a relief of a

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decree for declaration to the effect that the name of the minor plaintiff Himanshu instead of Hitesh, as mentioned in para No.3 of the plaint, be passed in favour of the minor plaintiff and against the defendants, in the interest of justice. It is further prayed that decree for Mandatory Injunction directing the defendants to make necessary correction in the name of the minor plaintiff in the record of birth and issue fresh birth certificate to the plaintiff on the ground mentioned in the plaint, in the interest of justice.

2. Brief facts of the case of the plaintiff are that the minor plaintiff namely minor Hitesh (to be changed to Himanshu) was born in Ganaur, Tehsil Ganaur, District Sonipat on 15.03.2011 and his birth was registered on 25.03.2011 with registration No.444. The father's name was registered as Pawan Kumar and mother's name registered as Renu. On demand of school for the birth certificate they came to the municipality Ganaur to obtain the birth certificate and then they came to know that the name of the plaintiff is Hitesh instead of Himanshu in the record of Registrar (Birth and Death), Municipality, Ganaur. It is further submitted that in the Aadhar Card, the name of the plaintiff is Himanshu and from birth of the minor is called Himanshu at home. It is further submitted that the plaintiff Pawan Kumar has made multiple attempts to get the name changed of Hitesh on birth certificate at the office of Registrar (Birth and Death), Ganaur. However the plaintiff has not received any response from the authorities despite his best efforts. Hence the

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present suit has been filed.

3. On notice, **defendant No.1** has appeared and filed written statement with the preliminary objection i.e. maintainability, cause of action and locus standi, barred by limitation, concealment of true and material facts and estoppel. **On merits** it is submitted that the name of the Minor plaintiff was mentioned/recorded by the answering defendant as Himanshu in the birth record register as per the information given the father/family member of the minor plaintiff at the relevant time. The allegations levelled by the plaintiffs against the answering defendant are false and concocted one. It is submitted that the answering defendant cannot add/Change/rectify the name of anyone in his/her birth record which has been now prepared/recorded from manual record to digital and also per the order/Letter bearing N0.2/2(G)-1SBHI/2014/6078-6098 dated 17-09-2014 issued the chief Registrar with Death and General Director, Health Services, Panchkula., Haryana. The plaintiff never approached to the answering defendants with alleged request as mentioned in the plaint. Remaining averments have been denied with request to dismiss the suit. Vide separate statement dated 20.03.2025 Ld. GP adopted the written-statement filed by defendant No.1.

4. **Replication not filed.** From the pleadings of the parties, following issues were framed from the Court of undersigned, vide order dated **20.03.2025:-**

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1.

Whether the plaintiff is entitled for a decree for declaration, as prayed in the plaint ? OPP
2.

Whether the plaintiff is entitled for a decree for mandatory injunction, as prayed for ? OPP
3.

Whether the suit of the plaintiff is not maintainable? OPD
4.

Whether the plaintiff has no locus standi or cause of action to file the present suit ? OPD
5.

Relief.

5. In order to prove the case, the following evidence has been led by plaintiff, which are as follows :-

PW1 Pawan Kumar (father of plaintiff), stepped in the witness box and has tendered his duly sworn affidavit Ex. PW1/A and documents Ex-P1 and Ex-P2, in his evidence.

6. Thereafter, Sh. Ravi Yadav, Advocate for plaintiff has closed the evidence vide his separately recorded statement dated 20.04.2026.

List of Exhibits :

Ex.P1	Copy of Birth Certificate of minor Hitesh
Ex.P2	Copy of Aadhar Card of Himanshu

7. Thereafter, no evidence has been led by the defendants. Thereafter, learned counsel for defendant No.1 has closed the evidence on behalf of defendant No.1 vide his separately recorded statement dated 28.07.2026 after tendering document Ex-D1 in evidence. While Ld. GP vide his separately recorded statement has also closed the evidence on behalf of defendant No.2 on the same day.

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List of Exhibits :

Ex.D1	Copy of Birth Certificate of minor Hitesh
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8. Thereafter, rebuttal evidence of plaintiff was closed by learned counsel for plaintiff vide separate statement dated **28.07.2026**.
9. I have heard the rival contentions advanced by the learned counsel for the parties and have perused the case file meticulously. My issue-wise findings are as under :-

ISSUES No.1 and 2:-

10. Issues No. 1 and 2 are based upon the pleadings of the plaintiff, hence the onus to prove the same lies upon him.
11. Learned counsel for the plaintiff has argued that the real name of plaintiff is Himanshu instead of Hitesh and same is liable to be corrected in his birth record i.e. birth certificate issued by defendants, and due to this anomaly, the plaintiff is facing various difficulties. With these submission, learned counsel for plaintiff has requested to decree the suit.
12. *Per contra*, learned counsel for the defendants have submitted that the name of plaintiff as Hitesh, was mentioned/recorded by the answering defendants in the birth record as per the information given by the father/family members of the plaintiff at the relevant time and that they cannot change/rectify the date of birth of anyone in his birth record which has been now prepared/recorded from manual record to digital. It is verbally submitted

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that as per the order/letter bearing N0.2/2(G)-1SBHI/2014/6078-6098 dated 17.09.2014 issued by the Chief Registrar (Birth & Death) and General Director, Health Services, Haryana Panchkula, department cannot do it. So, they are not entitled to any relief. With these submissions, learned defendants counsel requested to dismiss the suit of the plaintiff.

13. The exercise of discretion to grant **declaration** depends upon the circumstances of each case to maintain a suit under **Section 34 of Section Specific Relief Act**, following essential must be established:-

- 1. The plaintiff is a person entitled to any legal character or to any right as to any property that he has present interest.*
- 2. The defendants are person denying or interested to deny the plaintiff title to such legal character or there is an infringement of the plaintiff's right.*
- 3. The declaration suit for is a declaration that the plaintiff is entitled to a legal court or to a legal right in any property.*
- 4. That whether plaintiff is able to seek further relief than a mere declaration he is seeking such relief (i.e. consequential relief).*

14. Law relating to decree of declaration is discussed in **Section 34 of the Specific relief act 1963**, which is reproduced as below:-

Discretion of court as to declaration of status or right- Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a

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declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief.

15. Thus, it is apparently clear that any decree of declaration shall be granted in a situation where a person is entitled to legal character/right to any property and the party in opposition is either denying or interested to deny his title to such character or right. To seek a decree of declaration it was incumbent upon the plaintiff to initially prove that his legal right, character or title has been denied by the defendants.

16. The gist of the plaintiff case is that the answering defendants have wrongly mentioned the name of plaintiff as Hitesh instead of Himanshu in his birth certificate and when he got to know about the same recently he approached the answering defendant a number of times with a request to rectify the above said mistake, which is incorporated in the birth record, but the answering defendants are adamant and refused to accept the genuine request of the plaintiff. Hence, it is prayed that there is no bar of limitation.

17. On the other hand, the stand of answering defendants is that the name of plaintiff as Hitesh, was mentioned/recorded by defendants in the birth record as per the information given by the father/family members of the plaintiff at the relevant time and so, the defendant department was not at fault and it is the plaintiff who was in deep slumber till filing of the present suit and

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so, he is not entitled to any relief.

18. In the present case, the onus to prove that the actual and correct name of the plaintiff is Himanshu instead of Hitesh (as mentioned in the birth certificate of the minor plaintiff i.e. Ex-P1) was upon the plaintiff and only thereafter, he would be entitled for a decree for declaration and mandatory injunction regarding correction of the aforesaid particulars in the birth certificate. The plaintiff has got examined his father as PW1 who vide his affidavit Ex. PW1/A, alleging that name of plaintiff was wrongly mentioned in the birth certificate by the concerned department. The aforesaid version of the witnesses has not been specifically challenged/denied by the defendant by way of specific questions and/or suggestions which inturn implies that the version of the aforesaid witnesses that his actual name is Himanshu instead of Hitesh, has been duly corroborated by his own version and the answering defendant failed to elucidate anything material from the mouth of the aforesaid witnesses which could raise any sort of doubt over their respective testimony. In fact, from the Aadhar Card of the minor plaintiff which is produced on record as Ex-P2, it is apparent that the name of the minor plaintiff is Himanshu. Meaning thereby, the plaintiff is successful in establishing on record that his actual name is Himanshu instead of Hitesh.

19. Even otherwise, the defendants have not alleged or proved any malafide intentions on the part of plaintiff for seeking relief of changing the

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entries regarding his name. Moreover, the plaintiff has only sought relief of changing his name in the record of defendant department, which may have occurred due to clerical error. Further, the sought change of his name will not cause any prejudice to the defendants. Moreover, the wrong entries regarding his name in his birth certificate seems only pronunciation/clerical mistake. The above mentioned documents have duly established the version of plaintiff whereas the defendants have failed to rebut the same.

20. Thus, all these facts and circumstances of the case clubbed together do lead to the logical inferences that the actual and correct name of the plaintiff is **Himanshu instead of Hitesh** and so, the concerned department/defendant is liable to correct the name of the plaintiff in his records and to issue documents/birth certificate afresh. Plaintiff side must comply with departmental rules, if any, in this regard for obtaining the new certificate. Hence, issue Nos. 1 and 2 are decided in favour of plaintiff and against the defendants.

ISSUES No.3 and 4 :-

21. The burden to discharge the onus attached with these issues was upon the defendants. The learned counsel for the defendants did not raise the above-said issues in the course of the arguments. **Hence, these issues are decided against them, being not pressed.**

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ISSUE No.5 (Relief) :-

22. In the result, the present suit of the plaintiff stands **decreed with no order as to costs, to the effect as detailed in the judgment.** Decree sheet be drawn accordingly. Original documents placed on record by party to the suit, if any, be released to the party/counsel after placing on record of certified copies and against proper receipt. File, after needful, be consigned to record room.

Pronounced in open Court on: (Mansi Gaur)
Dated: 29.07.2026 Additional Civil Judge (Senior Division)
Ganaur/HR-0446

Note:- This judgment consists of **(10)** pages and all pages have been checked and signed by me.

(Mansi Gaur)
Additional Civil Judge (Senior Division)
Ganaur/HR-0446

Neha Sharma, SG-III