

1.

(CIS No. CS-0601-2022)

(CNR No. HRJNA1-000957-2022)

Anjali Vs. Board of School Education Haryana, Bhiwani & Ors.

HRJNA10009572022



IN THE COURT OF NAVEEN KUMAR-I, CIVIL JUDGE
(JUNIOR DIVISION), NARWANA
(UID No. HR0461).

Civil Suit No. : 0269 of 2022.
C.I.S. No. : CS/0601/2022.
C.N.R. No. : HRJNA1000957-2022.
Date of Institution : 14.10.2022.
Date of Decision : 25.09.2023 (25th September, 2023).

Anjali D/o. Rajesh R/o. Village Dablain, Tehsil-Narwana, District Jind.

..... Plaintiff.

VERSUS

1. Haryana Board of School Education, Bhiwani, Secretary/Chairman.
2. Janta Senior Secondary School, Belarkha (Jind) through Principal.
3. Registrar (Birth & Death)-cum-MO, PHC Danoda Kalan, District

..... Defendants.

Suit for Declaration and Mandatory Injunction.

Present:- Sh. Manoj Mor, Ld. Counsel for the plaintiff.
Sh. Deepak Ratti, Ld. GP for defendant No.3.
Defendants No.1 & 3 have been proceeded against ex-parte vide Order dated 12.12.2022.

J U D G M E N T

The plaintiff has filed the present suit seeking a decree for declaration and mandatory injunction and thereby sought the correction in her father's name as "Rajesh" instead of her wrong father's name as "Rajesh Kumar". It is claimed that as per the details mentioned in the birth certificate, the name of her father is mentioned as Rajesh only. However, her father's name has been wrongly mentioned as Rajesh

Naveen Kumar-1,
CJ(JD), Narwana,
UID No. HR-0461,
Dt. 25.09.2023

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Kumar in her Secondary (Metric) Certificate bearing Roll No. 2018181382 & Enrollment No. 17-1-JI-020-0026 and Senior Secondary Examination Certificate bearing roll No. 3020234123 & Enrollment No. 17-1-JI-020-0026 respectively by the Board of School Education, Haryana. When the plaintiff come to know about said facts, she approached and requested the defendants for making necessary corrections in her father's name, but all went in vain. Hence, the plaintiff has construed to file the present suit.

2. Upon notice, the defendant No.3 has put its appearance through Ld. GP and filed its written-statement besides taking certain preliminary objections in regard to non-maintainability, lack of cause of action, estoppel, territorial jurisdiction, etc. It was submitted **on merits** that as per the record of birth register mentioned at Sr. No. D-382, father's name as Rajesh Kumar & mother's name as Sudesh Devi of the plaintiff was corrected by the answering department on 05.11.2013 and thereby words "Kumar & Devi" has been deleted and now her parents name remained as Rajesh and Sudesh. The answering department has no concern with the dispute between plaintiff and defendants No. 1 & 2. The plaintiff has never approached before it for alleged correction. Rest of the averments denied specifically and a prayer for dismissal of present suit with costs has been made.

3. Upon notice, none has appeared on behalf of defendants No.1 & 2 despite due and proper service through summons and thus, they were

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proceeded against ex-parte vide Order dated 12.12.2022. It is pertinent to mention here that the defendant no.3 i.e. Registrar (Death & Birth) was impleaded vide Order dated 12.02.2022 and one Sh. Anshu Kumar, MO, PHC Danoda Kalan had appeared on behalf of defendant no.3.

4. From the pleadings contained in the plaint and in order to decide the present case, following issues were settled down by this Court on 14.02.2023:-

1. Whether the plaintiff is entitled to decree of declaration to the effect that the father's name of the plaintiff is Rajesh instead of Rajesh Kumar on the grounds mentioned in the plaint as prayed for?OPP
 2. Whether the plaintiff is entitled to decree for mandatory injunction to the effect of directing the defendants no.1 to 3 to make the correction in the father's name of the plaintiff in the secondary (metric) and senior secondary examination certificates, on the grounds mentioned in the plaint, as prayed for? OPD
 3. Whether the plaintiff has no cause of action against the defendant no.1 as the entries in the school record have been made as per the information provided by the parents of the plaintiff?OPD
 4. Whether the plaintiff has not adopted due procedure or course for making corrections in the name of her father in the said certificates? OPD
 5. Relief.
5. In her evidence, in order to prove his case, the plaintiff Anjali has examined herself as PW1 (affidavit as Ex.PW1/A). Thereafter, the

plaintiff has also tendered certain documents into her evidence which are described as under :-

- Ex.P1:** Copy of birth certificate of plaintiff.
- Ex.P2:** Copy of Senior Secondary Examination Certificate of plaintiff.
- Ex.P3:** Copy of Secondary Examination Certificate of plaintiff.
- Ex.P4:** Copy of Aadhar card of plaintiff's father.

Thereafter, Ld. Counsel for plaintiff has closed her evidence, vide making a separate statement.

6. On the other hand, in order to rebut the case of the plaintiff, the contesting defendant No.3 has examined only one witness. DW1 Amarjeet Singh MPHWS, PHC Danoda, Tehsil-Narwana, District Jind. Thereafter, the contesting defendant has tendered only a single document into its evidence i.e. **Ex-D1:** Copy of birth register. Thereafter, Amarjeet Singh MPHWS, PHC Danoda has closed evidence on behalf of contesting defendant No.3 vide making a separate statement.

7. No rebuttal evidence has been lead by the plaintiff and the same has been closed by Ld. Counsel for plaintiff vide making a separate statement.

8. I have heard the arguments advanced by the learned counsel for both the parties and perused the records available on case file very carefully.

ISSUES No. 1 & 2:-

9. Both these issues are taken-up together being inter-connected

and for the sake of brevity as well as for proper disposal. Onus to prove the issues no. 1 & 2 lies upon the plaintiff, under which she is bound to prove that she is entitled to the decree for declaration and mandatory injunction to the effect that correction of her father's name as "Rajesh" instead of wrong father's name as "Rajesh Kumar" be done in her Secondary & Senior Secondary Examination Certificates. Learned counsel for plaintiff has argued that the plaintiff has no other remedy except to file a civil suit regarding above stated corrections as she has already approached to the defendants but to no result and lastly, she prayed for decreeing of suit.

10. In order to prove her case, the plaintiff Anjali has examined herself as PW1 and she has reiterated the facts mentioned in the plaint through tendering her respective affidavit as Ex.PW1/A. The plaintiff in order to prove her case has further relied upon the documentary evidence in the form of Ex.P1 to Ex.P4. On the other hand, the defendant No.3 has examined DW1 Amarjeet Singh who almost deposed as per the version of defendant No.3. In the instant case, a perusal of entries of birth certificate Ex.D1 shows that the actual and correct name of plaintiff's father is "Rajesh" and not as "Rajesh Kumar". However, name of plaintiff's father in her Secondary & Senior Secondary examination certificate (Ex.P2 & Ex.P3) has been wrongly mentioned as Rajesh Kumar. In this manner, the correct name of plaintiff's father is appeared as "Rajesh" and not "Rajesh Kumar" and it is also corroborated from other document i.e. Ex.P4.

11. There seems to be a mistake or error on the part of the School i.e. defendant No.2, from where the plaintiff had appeared in the Board examination. It seems that no precaution was taken by the then school authority and further by the defendant No.1 to check, verify and mention the correct name of the plaintiff's father and also to verify the same. The defendants No. 1 & 2 have failed to rebut the cogent evidence led by the plaintiff by not putting their appearance to controvert the averments set out in the plaint. Furthermore, defendant No.3 claimed that the correction in the parents name of plaintiff was done on 05.11.2013. However, the defendant No.3 has failed to place on record any application or request if any made by plaintiff's parents and also by the plaintiff for making any correction in her birth record. Therefore, the alleged correction allegedly made on 05.11.2013 is found without any basis and the same cannot create any hindrance in the plaintiff's entitlement for correction in her father's name in both certificates. There is nothing on record which could show why the un-rebutted statement of the plaintiff be not accepted. The evidence led by the plaintiff could not be rebutted therefore, same goes unchallenged and by relying upon the oral as well as documentary evidence placed on record by the plaintiff, she is entitled to the relief sought for. The Civil Court has the jurisdiction to entertain and try the present suit because the plaintiff has no other remedy against the action of the defendants. Furthermore, the documentary evidence proved on record by the plaintiff in the form of Ex.P2 & Ex.P4, it clearly established that

the real & actual name of the plaintiffs' father is "Rajesh" and not "Rajesh Kumar". Therefore, on the basis of evidence led by the plaintiff, this court is of the view that plaintiff has established her case to show that her father's name has wrongly been mentioned in the Secondary & Senior Secondary Certificates as "Rajesh Kumar" instead of correct name as "Rajesh". Therefore, the plaintiff is certainly entitled to the relief sought by her. **Hence, issues No.1 & 2 are decided in favour of the plaintiff and against the defendants.**

ISSUES No.3 & 4:-

12. Onus to prove both issues lies upon the defendants but no evidence to prove the same has come on their part. In view of findings rendered qua aforesaid issues No.1 & 2, it can be held that the plaintiff has cause of action to file the present suit against the defendants and she also adopted the due procedure for seeking correction in his name before filing the present suit. Hence, this suit is very well maintainable and she cannot be estopped from filing the same. **Hence, issues No. 3 & 4 are decided in favour of the plaintiff and against the defendants.**

Relief:-

13. As a sequel to aforesaid discussion, **the suit of plaintiff succeeds and the same is hereby decreed with no order as to costs. A decree for declaration and mandatory injunction to the effect that the correct name of the plaintiff's father is "Rajesh Kumar" instead of wrong name as "Rajesh", is hereby passed in favour of the plaintiff and against**

the defendants. The defendants is directed to make the necessary correction in the name of plaintiff's father as "Rajesh" instead of "Rajesh Kumar" in her Secondary (Metric) and Senior Secondary Examination Certificates bearing Roll No. 2018181382 Enrollment No. 17-1-JI-020-0026 and 3020234123 Enrollment No. 17-1-JI-020-0026 and also in other related documents, on usual expenses to be deposited by the plaintiff and after that, the defendant no.1 shall issue a new/fresh Secondary & Senior Secondary Certificates **within one month from today**. The name of plaintiff shall be considered and treated as "**Rajesh**" for any official or school purposes till the new/fresh Secondary & Senior Secondary Examination Certificates after making necessary corrections is issued to her by the defendant no.1. Decree-sheet shall be prepared accordingly. File be consigned to record room after due compliance.

Before consigning the file to record room, the Civil Ahlmad is directed to ensure that 'Nathi A' and 'Nathi B' part of the file are separated. He shall present the file to the reader to this court within 3 days who shall personally check and ensure that the papers required to be kept in 'Nathi A' and 'Nathi B' are in order. He shall append a certificate with the file to this effect which is also shown to be and signed by me.

Announced in the Open Court:

Dated: **25.09.2023**.

Naveen Kumar-I,
Civil Judge (Jr. Division),
Narwana.
(UID No. HR-0461).

Note: All the **Eight Pages** of this Judgment
have been checked and signed by me.

Sakshi

Naveen Kumar-I,
Civil Judge (Jr. Division),
Narwana **25.09.2023**.
(UID No. HR-0461).