

KABG510093102022



IN THE COURT OF THE PRL CIVIL JUDGE & JMFC, GOKAK

PRESENT:

SRI. RAJEEV GOLASAR B.A. LL.M.

Prl. Civil Judge & JMFC,
Gokak.

O.S. No.560/2022

Date Of Judgment: 5th day of August 2023.

BETWEEN:

1. Pradeep S/o. Basappa Kocharagi,
Age: 17 Yrs, Occ: Student since minor,
R/by his natural Guardian father,
Basappa S/o. Basavantappa Kocharagi,
Age: 42 years, Occ: Coolie,
R/o.Benchinamardi (U), Tq. Gokak.

...Plaintiff

(By Shri M B Kadli, Adv.)

AND:

1. The Registrar of Births and Deaths,
CEO TMC Gokak,
2. The Head Master for boys and girls,
The New Educational Soccity / institute Curchorem
Quepem Block South Goa -403706
3. The Head Master,
Shri Sarswati Prathamik Marati Vidylya
Curchorem Goa -403706.
4. The Assistant District Educational Inspector Borimol
Quepem Goa – 403706.

5. The Government of Goa,
R/by Chief Secretary Government of Goa
State Goa.

...Defendants

(Defendant Nos.1 by Sri.BSK Adv., & D2 to 5 by Exparte)

Date of Institution of suit	:	18-10-2022		
Nature of suit	:	Consequential relief of Mandatory injunction		
Date of commencement of Recording of evidence	:	24-07-2023		
Date of pronouncement of Judgment	:	05-08-2023		
Total Duration	:	Year	Months	Days
		00	10	17

:: J U D G M E N T ::

The present suit is instituted for the relief of Declaration & Consequential relief of Mandatory Injunction. Rectification of the correct name of plaintiff 's name, his father name, his mother name and surname in his birth certificate, School record and Leaving / Transfer Certificate against the defendants, it is prayed to declare the correct name of the plaintiff as **Pradeep**, his father name as **Basappa**, his mother name as **Shantavva** and Surname as **Kocharagi** instead of plaintiff's father name **Basavaraj**, his

mother name **Shanta** and surname **Kochcharagi** and direction for rectification of the same in the records concerned.

2. The case of the Plaintiff is that: The plaintiff is permanent resident of Benchinamardi (U), Tq: Gokak, Dist.Belagavi, he studied 1st year PUC and his name is Pradeep S/o. Basappa Kocharagi and who born on 20-03-2006 at Gokak Poly Clinic Gokak, Dist Belagavi. The correct name of plaintiff name and his father, mother and Surname is Pradeep S/o. Basappa Kocharagi. But the same was wrongly and inadvertently mentioned as plaintiff's father name is **Basavaraj**, his mother name is **Shanta** and his surname is **Kochcharagi** in the birth certificate, school records and Leaving / Transfer Certificate. The other documents of plaintiff's father and mother, surname name i.e.,Adhar Card the correct name of the plaintiff is forthcoming as Pradeep S/o. Basappa Kocharagi. The plaintiff requested the defendants No.1 to 3 concerned to make corrections in regard to his name, but they have refused to do so, and they have replied that to approach Civil Court and get the decree. The plaintiff not issued legal notice to the defendants for correction of plaintiff name, parents name and

surname. Inspite of they have orally stated to get suitable decree from the competent court of law. Hence, the present suit.

3. The suit summons was duly served on the defendants No.1 to 3. Learned Sri BSK Adv., appeared for Defendant No.1 and defendant No. 2 to 5 are placed exparte. The counsel for defendant No.1 is Sri.BSK Adv., has filed written statement.

In the written statement the defendants have contended that, plaint averments are false and denied in toto. Suit of the plaintiff is false, frivolous and vexatious. Defendant further contended that as per instructions given by the parents of the minor plaintiff, the entries are made in the concerned records and the defendant has not made any mistake in entering name of minor plaintiff in the birth certificate, also denied that the parents of minor plaintiff gave information correctly but defendant authority has wrongly entered the name of minor plaintiff. Defendants further contended that in order to rectify their mistake they have filed this false suit against the defendant and issue notice U/s.248(1) of Karnataka Municipality Act is necessary. Moreover, the suit is not filed within 03 years for the relief of declaration from the date of birth and the

present suit is not maintainable under law and prayed for dismissal of the suit with cost.

4. Based upon the pleadings, the following;

Issues

1. *Whether the plaintiff proves that his correct father's name is "Basappa", his correct mother name is "Shantavva" and his correct surname is "Kocharagi" ?*
 2. *Whether the Plaintiff further proves that his father's, mother's name and surname is wrongly entered as "Basavaraj", " Shanta" and "Kochcharagi" in the Birth Certificate, SSLC Marks Card and Leaving / Transfer Certificate ?*
 3. *Whether the plaintiff is entitled for the relief as prayed?*
 4. *What order or decree?*
5. The plaintiff in order to prove his case got examined himself as PW.1 and got marked Ex.P.1 to P.9. The PW.1 is cross-examined by Learned Counsel for Sri.BSK Adv., but the defendants have not led any evidence on their behalf.

6. The above Issues are answered as below:

Issue No.1 : In the Affirmative.

Issue No.2 : In the Affirmative.

Issue No.3 : In the Affirmative.

Issue No.4 : As per the final Order for the following:-

:: R E A S O N S ::

7. Issue Nos.1 and 2: Since both the issues are inter related to each other and in order to avoid repetition of facts they are taken together for consideration at one stretch.

8. The plaintiff in order to prove his case got examined himself as PW.1 and has filed affidavit in lieu of examination of chief. In the affidavit the averments of the plaint has been reiterated. In support of his case plaintiff produced certain documents, they are, Ex.P.1 to P.9.

9. Ex.P.1 is the Birth Certificate of the plaintiff, wherein his father and surname is forthcoming as father name is Basavaraj and surname is Kochcharagi, Ex.P.2 is the School certificate of the plaintiff issued by defendant No.2, wherein his father, mother and surname is forthcoming as plaintiff's father name is Basavaraj, his mother name is Shanta and his surname is Kochcharagi, Ex.P.3 is the Transfer Certificate of the plaintiff's father, wherein his father name and surname is forthcoming as Basappa S/o. Basavanthappa Kochcharagi. Ex.P.4 is the Adhar Card of plaintiff, wherein his father name and surname is forthcoming as Pradip

Bhasappa Kocharagi, Ex.P.5 is the Adhar Card of plaintiff's father, where in his father name and surname is forthcoming as plaintiff 's father name is Basappa and his surname is Kocharagi, Ex.6 is the School Certificate of plaintiff, issued by defendant No.3, wherein his father name and surname is forthcoming as plaintiff father name is Basavaraj and his surname is Kochcharagi, Ex.P7 is the school certificate of plaintiff, issued by defendant No.2 wherein his father name and surname is forthcoming as plaintiff 's father name is Basavaraj and his surname is Kochcharagi. Ex.P.8 is the school leaving certificate of plaintiff, issued by defendant No.2 wherein his father name, mother name and surname is forthcoming as plaintiff's mother name is Shanta, his father name is Basavaraj and his surname is Kochcharagi. Ex.P9 is the Adhar Card of plaintiff's mother, where in his mother name and surname is forthcoming as plaintiff's mother name is Shantavva, his father name is Basappa and his surname is Kocharagi.

10. It is pertinent to note that the correct name of the father, mother and surname of the plaintiff is consistently forthcoming in Ex.P.4, 5 and 9 which are the significant Government documents, as plaintiff's father name is Basappa, his mother name is

Shantavva and his surname is Kocharagi. It is only in Ex.P.1 to 3,6 to 8 which are the school documents, belonging to plaintiff, issued by the defendant No.1 to 5, wherein the father, mother and surname of the plaintiff is forthcoming as plaintiff's father name is Basavaraj, his mother name is Shanta and his surname is Kochcharagi and Ex.P4,5 and 9 which are the Adhar Card of plaintiff, wherein the father, mother and surname of the plaintiff is forthcoming as plaintiff's father name is Basappa, his mother name is Shantavva and his surname is Kocharagi. The defendants have not produced the application form submitted by the parents of plaintiff in the school at the time of admission.

11. PW.1 is cross-examined by the Learned counsel Sri.BSK and during the course of the cross-examination the Learned counsel Sri.BSK Adv. has posed the suggestion denying the case of the plaintiff but the said suggestion is totally denied. This apart, nothing significant is extracted during the course of cross-examination by Learned counsel Sri.BSK Adv.,.

12. On careful evaluation and analysis of the plaint averments, affidavit/deposition of PW.1, the plaintiff has made out a fact that the correct plaintiff's father name is Basappa, his mother name is

Shantavva and his surname is Kocharagi. There is absolutely no material on record to discredit the evidence of PW.1 and documents produced by him before this Court. In view of the same the plaintiff has successfully proved that his correct father name is Basappa, his mother name is Shantavva and his surname is Kocharagi. The same was wrongly entered as plaintiff 's father name is Basavaraj, his mother name is Shanta and his surname is Kochcharagi in the Birth Certificate, Transfer Certificate and school leaving Certificate. **As a result the Issue No.1 and 2 are answered in the Affirmative.**

13. Issue No.3 : The plaintiff has successfully proved Issue No. 1 and 2. As such the plaintiff is entitled to relief of U/s.34 Specific Relief Act. The preponderance of probability is in favour of plaintiff. No hardship would be caused to the defendants if the correct father, mother and surname of the plaintiff is rectified. On the other hand the plaintiff would be extensively benefited by the said declaration and rectification. Thereby the plaintiff is entitled to the declaration of his correct father, mother and surname as Basappa Shantavva Kocharagi. The plaintiff also entitled to the relief of

direction against the defendants for rectification of the same in the concerned records. Hence, it is answered in the Affirmative.

14. Issue No.4: For the reasons stated and the discussions made above, proceed to pass the following:

:: ORDER ::

- *The Suit of the plaintiff is hereby decreed.*
- *It is declared that the correct name of the plaintiff is Pradeep and his father name is Basappa and mother name is Shantavva and surname is Kocharagi'.*
- *The Defendants concerned are hereby directed to rectify the correct name of plaintiff and his father, mother and surname in records concerned forthwith.*
- *The parties shall bear their own cost.*
- *Draw Decree accordingly.*

(Directly dictated to the stenographer on computer, typed by her, corrected and then pronounced by me, in the Open Court on this 5th day of August, 2023)

(Rajeev Golasar)
Prl. Civil Judge & JMFC,
Gokak.

ANNEXURE**1. List of Witnesses examined for Plaintiff:**

PW.1 : Basappa Basavantappa Kocharagi,

2. List of Documents marked for Plaintiff:

Ex.P.1 : Birth Certificate,
Ex.P.2 : School Marks Card,
Ex.P.3 : Transfer Certificate,
Ex.P.4 and 5 : Adhar Cards,
Ex.P.6 and 7 : School Certificates,
Ex.P8 : School Leaving Certificate,
Ex.P9 : Adhar Card.

3. List of Witnesses and documents for Defendants

Nil

(Rajeev Golasar)

Prl. Civil Judge & JMFC,
Gokak.