

**IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH**

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**R.S.A No. 6334 of 2014 (O&M)
Decided on : February 06, 2015**

Registrar, Birth and Death-cum-Secretary,
Municipal Council, Narwana, District Jind

... Appellant

Versus

Mohit Saini

... Respondent

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Ajay Bhardwaj, Advocate, for the appellant.

Mahavir S. Chauhan, J. (Oral)

Challenge in this regular second appeal brought by Registrar, Birth and Death – cum – Secretary, Municipal Council, Narwana, is to judgment/decreed dated 05.09.2014, whereby learned District Judge, Jind ('District Judge' – for short) has reversed findings recorded by learned Additional Civil Judge (Senior Division), Narwana, District Jind ('trial Court' – for short) and has decreed suit of the plaintiff-respondent for correction of the entry regarding his date of birth in the register of births as according to respondent his date of birth is 1.08.1989 in stead of 01.07.1989.

The appeal is barred by time, but I have heard learned counsel for the appellant on merits.

It is contended on behalf of the appellant that as per

instructions, Exhibit D-2, date of birth once recorded in the record of appellant cannot be changed under any circumstances and that being so the judgment recorded by the learned District Judge cannot be sustained.

A perusal of the impugned judgment/decreed would reveal that the respondent had approached the learned trial Court for a decree of mandatory injunction directing the appellant to correct the entry regarding his date of birth as 01.08.1989 instead of 01.07.1989 in his birth certificate issued vide registration No. D-139 dated 20.02.1990 and issue a fresh certificate after making necessary correction.

The suit was contested by the appellant by filing a written statement wherein it was stated that entries made in the register of births and deaths cannot be rectified as the mistake is not clerical, rather it was recorded as per information furnished by family of the plaintiff-respondent.

Parties were put to trial on following issues:-

- i) Whether the plaintiff is entitled for decree of mandatory injunction as prayed for on the grounds taken in the plaint?OPP
- ii) Whether suit is bad for want of proper court fee?OPD
- iii) Whether suit is not maintainable in the present form?OPD
- iv) Relief.

Both the sides adduced evidence and were heard by the learned trial Court to reach a conclusion that respondent's case lacked merit and accordingly, it was dismissed vide judgment/decreed dated 07.08.2013

which, on appeal, has been reversed and, instead respondent's suit has been decreed and mandate has been issued to the appellant to carry out necessary correction in the entry pertaining to date of birth of the respondent.

Exhibit D-2, though, is not available on the record of this file, but it has been read over by learned counsel for the appellant. This is gist of some deliberations undertaken by various Registrars of Births and Deaths under the chairmanship of Registrar General of India and it has been shown to have been resolved by them not to permit any change in the entries regarding births and deaths in the registers maintained by the Registrars of Births and Deaths. The instructions, Exhibit D-2, in my view, have no legal sanctity and backing of law and that being so cannot be used to non-suit the respondent on technical grounds. Even otherwise, no prejudice is shown to have been caused to the appellant on account of the mandate issued by the learned District Judge. Further, the findings recorded by the learned District Judge are pure findings of fact and the appeal is not shown to involve any question of law, much less a substantial one.

Consequently, I regret my disinclination to entertain this appeal.

Dismissed.

February 06, 2015
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[Mahavir S. Chauhan]
Judge