

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

C.M. NO.1268 C OF 2015 &

R.S.A. NO.455 OF 2015

DATE OF DECISION: FEBRUARY 25, 2016

Sonu

.....Appellant

VERSUS

Board of School Education, Haryana, Bhiwani

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Jarnail S. Saneta, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASI, J. (ORAL)

C.M. No.1268 C of 2015

Prayer in the present application is for condonation of delay of 35 days in filing the appeal.

The reasons assigned for the said delay are that firstly the applicant-appellant, being a poor person, was not thinking to approach this Court against the concurrent findings recorded by both the Courts below and secondly, he was short of funds. However, with the help of the relatives he arranged for the money and filed the present appeal. Counsel states that the delay in filing the present appeal is unintentional and bonafide. The said application is duly supported by an affidavit of the applicant-appellant.

For the reasons mentioned in the application, the same is

allowed and delay of 35 days in filing the present appeal stands condoned.

R.S.A. No.455 of 2015

Challenge in this appeal is to the judgment and decree dated 30.05.2013 passed by the Civil Judge (Junior Division), Karnal, whereby suit for declaration to the effect that the date of birth of the appellant-plaintiff be declared as 11.12.1990 and his name be declared as Sonu and that of his mother as Mewa Devi alongwith consequential relief of mandatory injunction, directing the respondent-defendants to correct the particulars in his middle certificate, secondary certificate and senior secondary certificate and issue fresh certificates of the above classes, has been dismissed, appeal against which preferred by the appellant-plaintiff has been dismissed by the District Judge, Karnal, on 07.08.2014.

It is the contention of learned counsel for the appellant that the appellant-plaintiff is a resident of village Gogripur and at the time when he joined the school, his father inadvertently mentioned his date of birth as 14.03.1990 and also got his name entered as Sandeep Singh and name of his mother as Mewa. He contends that as per the birth certificate of the appellant-plaintiff, his date of birth is 11.12.1990 and his name is mentioned as Sonu and his mother's name as Mewa Devi. He contends that the inadvertent and bonafide mistake has occurred because of illiteracy of his father, for which the appellant-plaintiff should not be made to suffer. He contends that as per the documents placed on record i.e. the date of birth certificate and ration card, it is apparent that the correct name of the appellant-plaintiff should have been incorporated and corrected but the Courts below have failed to appreciate the pleadings and the evidence and wrongly rejected the claim of the appellant-plaintiff. Prayer has, thus, been

made to set-aside the impugned judgments and decree and decreeing the suit of the appellant-plaintiff.

I have considered the submissions made by learned counsel for the appellant and with his able assistance have gone through the impugned judgments but do not find any illegality in the same.

The appellant-plaintiff has not produced any evidence in support of his contention, which would substantiate his plea with regard to the wrong mentioning of his name in the school records as Sandeep Singh instead of Sonu and his mother's name as Mewa instead of Mewa Devi. Neither the Chowkidar nor the record of the Civil Hospital has been placed on record, which would show that no other son was born to Ajmer Singh (father of the appellant-plaintiff) on 14.03.1990, the date as mentioned in the school certificate. Even respectables of the village have not been produced to support the contention of the appellant-plaintiff. No evidence has been led to show that the birth certificate, Ex.P5, relates to the appellant-plaintiff. Similar is the position with regard to the ration card. In these two documents, the names mentioned are Sonu and Sandeep respectively and, thus, the correct position with regard to name of the appellant-plaintiff has not come on record, on the basis of which his contention could be concluded in his favour. The Courts below have rightly held that the material evidence has not been produced and rather has proceeded to conclude that an adverse inference has to be drawn against him.

Another aspect, which has weighed in the mind of the Courts below, is the delay with which the appellant-plaintiff has approached the Courts for correction of his date of birth, his name and his mother's name.

The said doubt created with regard to his bonafide has not been dispelled by the appellant-plaintiff. The findings and the conclusion as recorded/drawn by the Courts below, thus, cannot be faulted with.

No other point has been argued by learned counsel for the appellant-plaintiff.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

February 25, 2016
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE