

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.P.No. 19594 of 2019
in
S.A.SR.No. 138284 of 2018

N.Baskaran ..Appellant sought to prefer SA
Vs.

1. District Collector,
Cuddalore District.
2. Director General of Police,
Kamarajar Salai,
Chennai - 4.
3. Director of Secondary Education,
Nungampakkam, Chennai -600 006.
4. The Secretary, Home Department,
Fort St.George, Chennai - 600 009.
5. Neerathilingam ..Respondents

Prayer: Civil Miscellaneous Petition filed under Order XLI Rule 3 A r/w. Order XLII Rule of C.P.C., to condone the delay of 6539 days in filing the second appeal.

Prayer in S.A.SR.No 138284/2018:

Second Appeal sought to be filed against the Judgment and decree dated 26.09.2003 made in A.S. No. 2/2003 on the file of the Additional District Judge (FTC II) Cuddalore confirming the Judgment and decree dated 25.01.2002 made in O.S. 370/1995 on the file of the Principal District Munsif, Cuddalore.

For Petitioner : Mr. D.Ravichander

J U D G M E N T

This Civil Miscellaneous Petition has been filed seeking condonation of delay of 6539 days in filing the appeal.

2. The appellant, who is a serving IPS Officer filed a suit in O.S.No. 370 of 1995 for declaration that his date of birth is 26.10.1963 and not 26.04.1962 as found in the records. He also sought for a mandatory injunction to make necessary corrections in the service register. Admittedly, the appellant entered into service on 16.02.1991 but he has not taken any steps to have his service records corrected till date. The suit came to be dismissed on the ground the appellant will have to seek correction of his date of birth before the authorities and if such request is denied he will have to move the appropriate Court under the service jurisdiction and he cannot seek a declaration before a Civil Court and Civil Court cannot issue a mandatory injunction directing correction of date of birth in service records.

3. On appeal, the lower Appellate Court found that it has got jurisdiction to entertain the suit in respect of declaration however, the lower Appellate Court found that the evidence in respect of the claim of the plaintiff is not sufficient to grant a declaration. On the said findings, the learned Appellate Judge confirmed the dismissal of the suit in different reasons. Aggrieved, the appellant has come forward with this instant appeal with a delay of 6579 days. The reasons assigned by the appellant that he is a Police Officer and he could not take leave in view of his job is not convincing. The delay is enormous, this Court had consistently held that any request for change of date of birth made after 5 years cannot be entertained by the authorities.

4. Admittedly, the appellant had entered into service by 1991, it is almost 28 years now. Even, if he succeeds in the second appeal, it will be only a paper decree as far as he is concerned because he has lost the right to have the date of birth corrected. Even otherwise, the reasons assigned for such inordinate delay are far from convincing. Hence, I do not find any sufficient cause for condonation of delay, this Civil Miscellaneous Petition is dismissed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

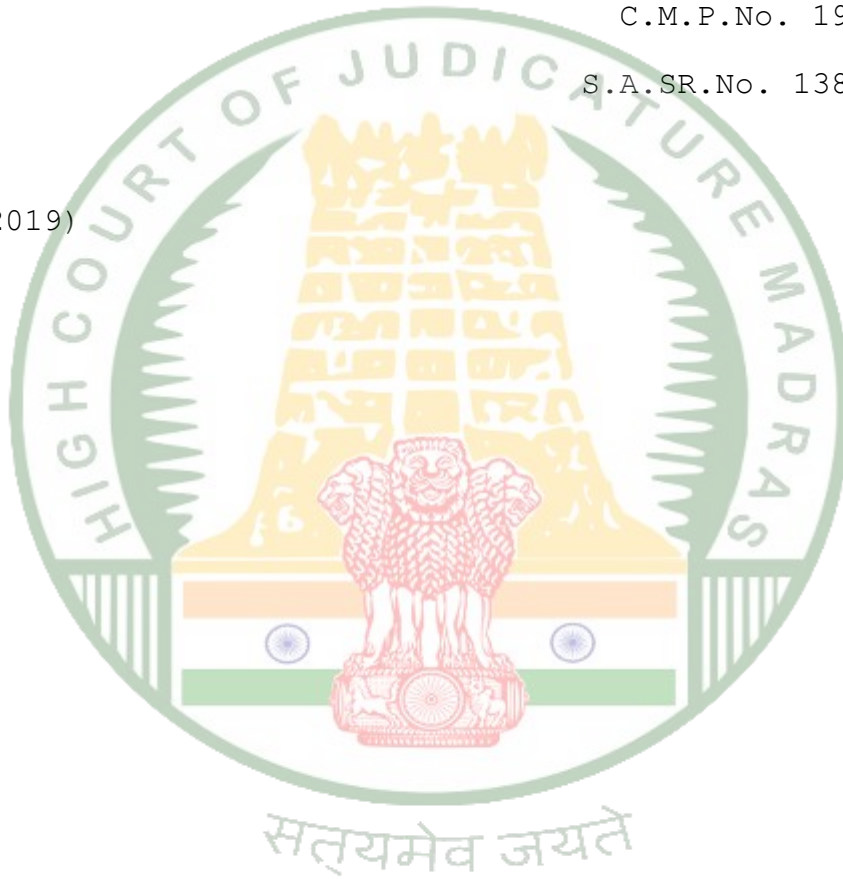
1.The Additional District Judge
FTC II, Cuddalore

2.The Principal District Munsif
Cuddalore.

+1 CC to Mr.D. Ravichander, Advocate sr 79479.

C.M.P.No. 19594 of 2019
in
S.A.SR.No. 138284 of 2018

SS(CO)
SP(30/10/2019)



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