

[109] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2847-2019

Date of Decision :01.03.2023

Ajay

...Appellant

Versus

REGISTRAR, BIRTH AND DEATH, CHC KILOI,
DISTRICT ROHTAK AND ANOTHER

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Chander Shekhar Singh, Advocate for the appellant.

B.S. Walia, J.,

[1] Challenge in the regular second appeal is to the judgment and decree dated 16.01.2019 passed by the learned District Judge, Rohtak in CA No. 82 of 2018 in case titled as Registrar, Births and Deaths, CHC, Kiloi, District Rohtak and another vs Ajay s/o Jasbir Singh, reversing the judgment and decree dated 07.03.2018 passed by the learned Additional Civil Judge (Sr. Div.) Rohtak vide which the suit of the appellant / plaintiff was decreed.

[2] That on the basis of pleadings by parties, the learned trial court framed the following issues :-

1. Whether the plaintiff is entitled to decree for declaration as prayed for? OPP
2. Whether the plaintiff is entitled to decree for mandatory injunction as prayed for? OPP
3. Whether the suit of the plaintiff is highly time barred? OPD
4. Relief.

[3] Thereafter, on the basis of evidence and arguments advanced by the parties, the learned trial Court by taking into account Ex. P/3 i.e. birth

certificate of Deepshikha, (alleged) sister of the appellant, reflecting her date of birth as 29.06.1993 and by observing that the appellant / plaintiff could not be born within a span of 6 months thereafter i.e. on 17.01.1994, held that the appellant / plaintiff had fully proved his case, decided issue Nos.1 to 3 in his favour and in view thereof, decreed the suit to the effect that the correct date of birth of the appellant / plaintiff was 21.12.1995 instead of 17.01.1994 and directed respondent / defendant No.1 to correct the same in the record and to issue fresh certificates as per Rules.

[4] Learned District Judge, Rohtak on appeal filed by the Registrar Births and Deaths, CHC Kiloj, District Rohtak as well as the State of Haryana through Collector, Rohtak, vide judgment and decree dated 16.01.2019 in Civil Appeal No.82/2018 reversed the judgment and decree passed by the learned Additional Civil Judge (Sr. Div.), Rohtak and dismissed the suit filed by the appellant/plaintiff

[5] Sole argument of learned counsel for the appellant/plaintiff in the instant Regular Second Appeal is that the learned Appellate Court erred in reversing the well-reasoned judgment and decree passed by the learned trial Court without appreciating the evidence on record, i.e. entry in anganwadi register, date of birth entered in the school record as also in the driving licence which reflected date of birth of the appellant as 21.12.1995 besides, date of birth of the appellant's sister Deepshikha i.e. 29.06.1993.

[6] I have considered the submissions of learned counsel and perused the record.

[7] Admittedly, births and deaths in India are mandatorily required to be registered under the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the Act) which became applicable in the State of

March, 1970, published in the Gazette of India.

[8] That as per the Act, it is the duty of the Registrar of the concerned area to enter in the register maintained for the purpose, all information given to him under Section 8 or Section 9 as also to take steps to inform himself carefully of every birth and death which takes place in his jurisdiction. Section 8 stipulates the specific persons whose duty it is to register births and deaths by giving information to the Registrar, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed with information qua birth in a house being liable to be given by the head of the house etc. Section 11 on the other hand requires the persons giving the information to sign the register while giving his particulars therein and copy of extract of information thereof is to be supplied to such informant. Section 15 provides for correction or cancellation of entry in the register of births and deaths on it being proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under the Act is erroneous in form or substance, or has been fraudulently or improperly made. Section 23 on the other hand provides for payment of penalty by any person who without reasonable cause fails to give information required to be given u/s 8 or 9 of the Act.

[9] Ex. P/1 i.e. Birth certificate, reflecting the appellant / plaintiff Ajay's date of birth as 17.01.1994 was registered vide registration at serial No.5 on 30.01.1994 duly mentioning plaintiff / appellant's as well as his fathers and mothers name as Ajay / Jasbir and Urmila respectively, as also address i.e. Village Kiloi.

[10] The case as set up by the appellant / plaintiff is that as per birth certificate Ex. P/3, his sister Deepshikha was born on 29.06.1993, therefore,

he could not have been born within a span of six months on 17.01.1994 and

his date of birth was correctly recorded as 21.12.1995 in the Register (Ex. P/2), Secondary School Examination Certificate (Ex. P/5), besides driving licence (Ex. P / 6),

[11] Learned Appellate Court on perusal of the record came to the conclusion that there was nothing on the record to show that Deepshikha was the real sister of the appellant / plaintiff, she had not stepped into the witness box to give any solid proof of her being the real sister of the appellant / plaintiff, there no explanation whatsoever as to why her birth certificate Ex. P/3 reflecting date of birth as 29.06.1993 was got registered on 14.06.2015 i.e. after 22 years of her birth, the civil suit was time barred as the date of birth of the appellant / plaintiff recorded in birth certificate Ex. P/1 was 17.01.1994 whereas the civil suit was filed on 02.08.2016 i.e. three years beyond the appellant attaining the age of majority.

[12] Learned Appellate Court further held that reliance on the Secondary School Examination Certificate and Driving Licence reflecting date of birth 21.12.1995 were not sufficient to rebut the presumption attached to the birth certificate Ex. P/1 which was a document issued by the competent authority i.e. the Registrar of Births and Deaths in exercise of his statutory duties. Besides, no explanation had been given qua the date of birth of the appellant / plaintiff recorded as 17.01.1994 instead of 21.12.1995 as per information of birth given on 30.01.1994.

[13] Apart from no explanation having been given for the delay in registering the birth of Deepshikha, she did not step into the witness box to substantiate that she is the real sister of the plaintiff / appellant. It also needs noticing that the entry at Serial No.25 in the anganwadi register only mentions the name Ajay s/o Jasbir born on 21.12.1995 in Village Kilo. The

same does not mention the name of the mother nor has any evidence been

led by the plaintiff/appellant to establish that the same pertains to him as also that no other son was born to his parents. Therefore, the aforesaid entry does not establish the same as pertaining to the plaintiff / appellant.

The date of birth 17.01.1994 recorded in birth certificate Ex.P/1 is the same as was recorded on the basis of intimation given to the Registrar Births and Deaths on 30.01.1994 correctly mentioning not only the name of the appellant / plaintiff but also that of his father, mother, besides, the village address which corresponds to the details of the appellant, his parents and their place of residence. An entry in the Register of Births and Deaths carries a presumption of correctness since the same is recorded by a public officer in the discharge of his official duties. It is not open to a person to dispute the correctness of the entry except as per Section 15 of the Act, by satisfying the competent authority of his claim of a wrong entry having been made and correction thereafter being allowed by the competent authority. It is inconceivable that date of birth as recorded in the birth certificate on the basis of information given within a few days of the birth in the case of the plaintiff/appellant was wrong especially when no explanation whatsoever has been given as to how the information given on 30.01.1994 on the basis of which date of birth was recorded as 17.01.1994 qua the plaintiff/appellant was wrong or that it was not given by the person required under the Act to give the information or that said person was not authorised to do so under the Act and that the information given did not pertain to the plaintiff/appellant. Once the entry was made and in view of the provisions of the Act, extract of entry is also given at the time of entry, the plaintiff appellant is estopped from disputing the same vide civil suit dated 02.08.2016. The appellant/plaintiff has not been able to negate the

Deaths in exercise of statutory powers under the Act reflecting his date of birth as 17.01.1994, nor did plaintiff/appellant invoke the remedy under Section 15 of the Act nor was the suit dated 02.08.2016 filed within three years of his attaining majority in the light of entry of date of birth being 17.01.1994, consequently, the suit filed by the appellant/plaintiff was barred by limitation.

[14] In the light of the position noted above, no grounds whatsoever have been made out to interfere with the well reasoned judgment and decree dated 16.01.2019 passed by the learned District Judge, Rohtak in CA No.82 of 2018 reversing the judgment and decree dated 07.03.2018 passed by the learned Additional Civil Judge (Sr. Div.), Rohtak vide which the suit of the plaintiff was decreed. No substantial question of law, much less question of law arises for consideration in the instant Regular Second Appeal. Resultantly, the instant Regular Second Appeal is dismissed in limine.

(B.S. Walia)
Judge

01.03.2023
'Amit'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No