

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-2861-C-2023
CM-2862-C-2023
CM-2863-C-2023
RSA-750-2023
Date of Decision :04.05.2023

CBSE ...Appellant

versus

SawanRespondent

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

Present : Mr. Kannan Malik, Advocate for the appellant.

Mr. Nonish Kumar, Advocate for the respondent.

B.S. Walia, J. (Oral)

CM-2862-C-2023

For the reasons as are mentioned in the application, the same is allowed. Delay of 43 days in refiling of the appeal is condoned.

CM-2861-C-2023

For the reasons as are mentioned in the application, the same is allowed. Delay of 58 days in late filing of the appeal is condoned.

RSA-750-2023 (O&M)

1. Challenge in the appeal is to the judgment and decree dated 26.07.2022, passed by the learned Addl. District Judge, Karnal, in Civil Appeal No.126/2021, affirming the judgment and decree dated 01.10.2019, passed by the learned Civil Judge (Junior Division), Karnal, decreeing suit No.18/2019, instituted on 14.01.2019, in case titled as

2. Learned counsel contends that the respondent passed the matriculation examination in the year 2015 and was issued matriculation certificate on 28.05.2015, recording his date of birth as 07.04.1999 and father's name as Surinder Singh and subsequently, the respondent obtained a birth certificate from the O/o Registrar (Births and Deaths) on 17.10.2018, reflecting his date of birth as 16.04.2002 and father's name as Salinder Singh and mother's name as Meena Devi and recording the same address as given in the school at the time of his admission in the year 2014. Learned counsel contends that the respondents-plaintiff thereafter filed a civil suit on 14.01.2019, for correction of his date of birth from 07.04.1999 to 16.04.2002 and father's name from Surinder Singh to Salinder Singh, on the basis of said birth certificate.

3. Sole argument of learned counsel for the appellant is that once matriculation certificate had been issued to the respondent-plaintiff on 28.05.2015, reflecting his date of birth as 07.04.1999 and fathers name as Surinder Singh, the suit filed on 14.01.2009 was not maintainable in view of acquiesce by the respondent-plaintiff.

4. Pursuant to notice of motion, Mr. Nonish Kumar, Advocate has put in appearance and filed power of attorney and contends that there is no dispute by the appellant with regard to the authenticity of the birth certificate or the correctness of the date of birth of the respondent, his father's name or other details as given in the birth certificate and that as per the same, the respondent-plaintiff was a minor as on the date of filing of the suit, therefore, the civil suit filed for correcting the date of birth as

well as name of the father was maintainable. On query, learned counsel

for the appellant frankly concedes that there is no dispute with regard to the authenticity of the birth certificate issued to the respondent-plaintiff on 17.10.2018, reflecting his date of birth as 16.04.2002 or his father’s name recorded therein as Salinder Singh.

5. I have considered the submissions of learned counsel and with their able assistance having gone through the record.

6. Once it is the admitted position between the parties that there is no dispute with regard to the authenticity of the birth certificate issued by the office of the Registrar (Births & Deaths) on 17.10.2018, reflecting date of birth of the respondent-plaintiff as 16.04.2002, name of the father of the respondent-plaintiff as Salinder Singh, besides recording other details and on the basis of said birth certificate, the respondent-plaintiff being a minor on 14.01.2019 i.e. the date of institution of the civil suit, no infirmity whatsoever in the same can be said to have been committed by the Courts below in correcting the date of birth as well as father’s name of the respondent-plaintiff on the basis of birth certificate, which as has been noted above has not been disputed by learned counsel for the appellant. No substantial question of law much less question of law arises for consideration in this appeal.

7. Accordingly, finding no merit in the appeal, the same is dismissed.

(B.S. Walia)
Judge

04.05.2023
rajesh