



WEB COPY



S.A.No.803 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.03.2025

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.803 of 2024

Sathik Ali
S/o.Obithur Rahman

... Appellant

Vs

The Regional Passport Officer,
Office of the Regional Passport officer,
Municipal Water Tank Building,
W.B.Road,
Tiruchirappalli Town-620 008.

... Respondent

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 15.07.2021, made in A.S.No.14 of 2019, passed by the Additional Subordinate Court, Mayiladuthurai, confirming the judgment and decree dated 11.01.2019, made in O.S.No.19 of 2018, passed by the learned Principal District Munsif, Mayiladuthurai.

For Appellant : Mr.B.Jawahar
For Respondent : Mr.A.Murugan



S.A.No.803 of 2024

JUDGMENT

WEB COPY

The appellant has filed this Second appeal against the Judgment and decree dated 15.07.2021, made in A.S.No.14 of 2019, passed by the Additional Subordinate Court, Mayiladuthurai, confirming the judgment and decree dated 11.01.2019, made in O.S.No.19 of 2018, passed by the learned Principal District Munsif, Mayiladuthurai.

2. Heard Mr.B.Jawahar, learned counsel for the appellant, and Mr.A.Murugan, learned counsel appearing for the respondent, and perused the material available on record.

3. For the sake of convenience, the parties herein are referred to as they were ranked in the suit.

4. To correct the date of birth, the appellant / plaintiff approached the Court seeking a declaration as well as a mandatory injunction against the passport authorities. In respect of proof of date of birth, the appellant / plaintiff produced the SSLC certificate.

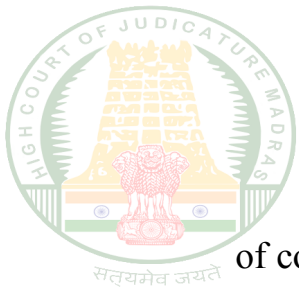
2\8



S.A.No.803 of 2024

WEB COPY

5. The case of the plaintiff is that his original date of birth is 19.01.1968, but mistakenly it was mentioned as 19.01.1964. Upon discovering this error, he immediately approached the authorities. However, the authorities were not inclined to correct the date of birth, stating that a passport had already been issued to him in 1984 and was subsequently renewed in 2004 and 2014. According to the guidelines, if the date of birth was wrongly mentioned, he ought to have approached the authorities within 5 years from the date of issuance of the passport. Instead, he approached the authorities nearly 15 years later, which was not permissible. Therefore, the authorities declined to make any corrections, prompting the plaintiff to approach this Court, praying for a declaration of his correct date of birth and seeking a mandatory injunction directing the authorities to make the correction. The trial Court dismissed the suit, holding that the plaintiff ought to have taken steps within 5 years from the issuance of the passport, as per the guidelines issued and marked as Ex.B4 on the side of the authorities/defendant. Since the plaintiff approached the Court nearly 34 years later, the trial Court held the suit was not maintainable. This decision was upheld by the first appellate Court. Challenging the concurrent findings



S.A.No.803 of 2024

of courts below, the present appeal was filed by the appellant/plaintiff.

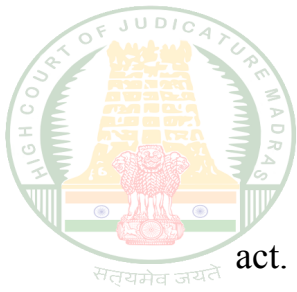
WEB COPY

6. The Second appeal is admitted on 25.03.2024 with the following substantial questions of law.

"a. Whether the Courts below are right in rejected the Ex.A3, transfer Certificate, which is the oldest and earliest document than the passport and the particulars thereon were furnished by the parents of the appellant, which one of most vital document to prove the date of birth of the appellant?"

b. Whether the Courts below are right in dismissing the main relief of declaration of date of birth of the appellant, by holding that the guidelines of respondent prescribe 5 years limitation for alteration of particulars in passport from the date of its issuance?"

7. The learned counsel for the appellant submitted that the plaintiff's original date of birth is 19.01.1968, which is proved by producing the school certificate marked as Ex.A3. It was only due to a mistake that his date of birth was recorded as 19.01.1964. Once the plaintiff became aware of the error, he immediately approached the authorities, but they refused to



S.A.No.803 of 2024

WEB COPY

act. Therefore, the trial Court ought to have granted the relief of declaration and mandatory injunction, as the plaintiff had produced valid documents proving his correct date of birth.

8. By way of reply, the learned counsel for the respondent/defendant submitted that the passport was issued in the year 1984. If at all there was any mistake in the date of birth, the plaintiff should have approached the authorities within 5 years from the date of issuance, as per the guidelines, which were produced in the form of an official memorandum marked as Ex.B4. Since the plaintiff failed to approach the authorities within the prescribed time, his claim was barred.

9. However, the plaintiff's case is that he came to know about the error only in 2018, and thereafter, he promptly approached the authorities. Admittedly, the passport was renewed in 2004 and 2014, yet even at those times, no steps were taken by the plaintiff.

10. Upon examining the SSLC certificate marked as Ex.A2, it is clear

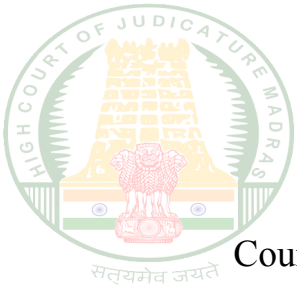


S.A.No.803 of 2024

that the plaintiff's correct date of birth is 19.01.1968. There is no dispute regarding the correct date of birth. The only issue is that the plaintiff did not approach the authorities in time. Therefore, with respect to the prayer for declaration, the plaintiff is entitled to have his date of birth declared as 19.01.1968, since he has proved it through the SSLC certificate, and the same has not been disputed by the authorities. The trial Court erroneously dismissed the suit, hence, questions of law A is answered accordingly.

11. Regarding the aspect of limitation, the reason assigned by the authorities is technically justifiable. However, considering the fact that the plaintiff has proved his correct date of birth, he is still at liberty to approach the authorities. As of the date of this order, his date of birth stands declared by this Court. Therefore, a fresh cause of action arises, and the plaintiff is entitled to approach the authorities/defendant to request correction of the date of birth as 19.01.1968.

12. As rightly pointed out by the counsel for the respondent, there is a statutory bar in granting a mandatory injunction in this matter. Hence, this



S.A.No.803 of 2024

Court is not inclined to grant that relief. However, the plaintiff is at liberty to approach the authorities, as discussed above.

13. Accordingly, this Second Appeal is Partly allowed. There shall be no order as to costs.

03.03.2025

ri

Index : Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

- 1.The Additional Subordinate Judge, Mayiladuthurai.
2. The Principal District Munsif, Mayiladuthurai.
- 3.The Section Officer, VR Section, High Court of Madras.



WEB COPY



S.A.No.803 of 2024

T.V.THAMILSELVI, J.

rri

S.A.No.803 of 2024

03.03.2025