

KABG040028682023



**IN THE COURT OF THE IV ADDL.CIVIL JUDGE &  
JMFC, AT : BELAGAVI**

**DATED THIS THE 7<sup>th</sup> DAY OF OCTOBER, 2023**

**PRESENT**

**Smt. Suman Chitargi**

**B.com., LL.M.**

**IV ADDL. CIVIL JUDGE & JMFC, BELAGAVI**

**Original Suit No.925/2023**

**Plaintiff :-**

- 1. Shri. Vighnesh S/o Dinesh Prabhu,**  
Age : 22 years, Occ : Service,  
R/o : 5106L Mahalasa Narayani,  
7<sup>th</sup> cross, BMM school Bailur,  
Udupi, Tal & Dist : Udupi – 576101  
Aadhar Card no. 8214 8081 8634
- 2. Mrs. Divya W/o Dinesh Prabhu,**  
Age : 50 years, Occ : Service,  
R/o : Mahalasa Krupa, Yalamalli  
Compound, 8<sup>th</sup> cross, Bhagyanagar,  
Belagavi – 590 006

**(Rep. By Smt. P. P. Patil, Advocate)**

**V/s**

**Defendants :-**

- 1. The State of Karnataka  
R/By The Deputy Commissioner,  
Belagavi - 590001**

**2. The Commissioner,  
City Corporation Health Section,  
Belagavi.**

**(D-1 : DGP)**

**(D-2 : Ex.parte)**

Date of institution of suit	03-08-2023
Nature of suit	For Declaration and mandatory injunction
Date of commencement of recording of evidence	02-09-2023
Date of pronouncement of Judgment	07-10-2023
Total duration	<b>Year/s    Month/s    Day/s</b>
	<b>00                    03                    4</b>

**IV Addl. Civil Judge & JMFC,  
Belagavi.**

**J U D G M E N T**

The plaintiffs have filed this suit against the defendants for the relief of declaration to declare the name of the plaintiff No.2 as **Divya Dinesh Prabhu** instead of **Reshma Dinesh Prabhu** and father's name of plaintiff No.1 as **Dinesh Prabhu** instead of **Dinesh R Prabhu** and plaintiffs also seeking issuance of direction to the defendant No.2 to rectify the name of the plaintiff No.2 as '**Divya Dinesh Prabhu** and father name of the plaintiff No.1 as **Dinesh Prabhu** in the birth certificate maintained by him and to

such other reliefs.

**2. The brief facts of the plaintiff's case are as under:-**

That the plaintiff No.1 is the son of plaintiff No.2 and plaintiff No.1 is completed his schooling at G.M. Vidyaniketan Public School Brahmavara and at present working in Bangalore. Further the plaintiff No.2 is working as a Assistant Administrative Officer in information and technology department at LIC of India divisional office, Basaveshwar Circle, Goaves, Belagavi.

Further stated that defendant No. 2 has issued the Birth Certificate bearing Regn. No. 0/2001/677 of plaintiff No. 1 and the name of the plaintiff No.2 in the birth record is wrongly mentioned as **Reshma Dinesh Prabhu** instead of **Divya Dinesh Prabhu** and father's name of plaintiff no.1 is wrongly mentioned as **Dinesh R Prabhu** instead of **Dinesh Prabhu** and due to oversight the plaintiff No.2 did not look for the wrongly mentioned name in the birth Certificate. Further stated that at the time of admission the plaintiff No.2 submitted birth Certificate and same is continued in school records.

Further stated that later plaintiff No.1 applied for the passport he came to know the said mistake and after noticing the said mistake in the certificate the plaintiff No.2 wants to rectify the same. Hence they have approached the defendant No.2 for the said correction but they were directed to approach the Court of law.

Further stated that in all necessary documents such as Aadhar Card, Pan Card, Bank passbook, Passport, Identity Certificate of LIC the plaintiff No.2 name is mentioned as **Divya Dinesh Prabhu** and to show that plaintiff No.1 father's name is **Dinesh Prabhu** she also produced Aadhar Card, Pan Card and Passport. Further stated that plaintiff No.1 is facing problem for issuance of passport and it is held up due to the corrections of names in the birth Certificate and plaintiff No.1 is working in MNC Company and he needs to travel out of India for his job purpose hence, the plaintiffs have constrained to file this suit and accordingly prayed for decreeing the suit.

**3.** After service of summons, the defendant No.2 has remained absent and thereby placed as ex-parte. Further the learned District Government pleader has filed memo of

appearance for defendant No.1 and submits that he has no written statement. Hence the written statement of defendant No.1 is taken as not filed. Hence the case was posted for evidence on plaintiff's side.

4. Based upon the above said materials on record, the following **points** arose for consideration of the court:

1. ***Whether the plaintiffs prove that name of the plaintiff No.2 as Divya Dinesh Prabhu instead of Reshma Dinesh Prabhu and father's name of plaintiff No.1 as Dinesh Prabhu instead of Dinesh R Prabhu as averred in the plaint?***
2. ***Whether the plaintiffs are entitled for the relief of declaration and mandatory injunction as sought for ?***
3. ***What order or decree?***

5. In order to substantiate their case, plaintiff No. 2 herself examined as PW.1 through her chief affidavit she has reiterated the plaint averments and got marked 4 documents wherein Ex.P1 to P4 and closed her side. Further the plaintiff No.1 himself examined as PW.2, through his chief affidavit,

wherein he has reiterated the plaint averments and got marked 4 documents as per Ex.P5 to Ex.P9 and closed his side. On the other, defendant No.2 remained absent and placed as ex-parte and the defendant No.1 appeared through DGP but did not choose to file written statement. Hence cross-examination of PW.1 and 2 taken as nil.

6. Heard arguments and perused the documents on record.

7. My answer to the above said points are as under:

**Point No.1 : In the Affirmative**

**Point No.2 : In the Affirmative**

**Point No.3 : As per the final order**

**For the following:**

**: REASONS :**

8. **POINT No.1:** The plaint averments discloses that in the Birth certificate of plaintiff No 1 his mother i.e., plaintiff No.2's name is wrongly mentioned as 'Reshma Dinesh Prabhu' instead of 'Divya Dinesh Prabhu' and father's name of plaintiff No.1 is wrongly mentioned as **Dinesh R Prabhu** instead of **Dinesh Prabhu**'. Hence, the plaintiff approached

the defendant No.2 to rectify the correction and to enter the same in birth certificate but defendant No.1 denied the same hence this suit.

**9.** After service of suit summons, defendant No.2 remained absent and he was placed ex-parte and defendant No.1 appeared through DGP and submitted that he has no written statement.

**10.** In order to substantiate their case, plaintiff No.2 examined as PW.1 and filed affidavit in lieu of examination in chief, wherein she has reiterated the plaint averments. Through PW.1 Ex.P1 to Ex.P4 documents were produced and marked. Ex.P1 is the birth Certificate of the plaintiff No.1 issued by defendant No.2. Ex.P2 is the original Aadhar Card of the plaintiff No.2. Ex.P3 is the original passport of plaintiff No.2 . Ex.P4 is the original Pan Card of plaintiff No.2.

**11.** Further the plaintiff No.2 has examined himself as PW.2 and in support of his oral evidence 4 documents were marked as per Ex.P5 to P9. Wherein Ex.P5 is the Original

Aadhar Card. Ex.P6 is the Original Pan Card of plaintiff No.1. Ex.P7 and P8 are the Original Performance Report Cards issued by GM Vidyaniketan Public School for the year 2013-2014 and 2014-15.I have carefully gone through the contents of the documents.

**12.** On perusal of Ex.P1 – birth Certificate of the plaintiff No.1 the name plaintiff No.2 is mentioned as ‘Reshma Prabhu’ and father of the plaintiff No.1 is ‘Dinesh R Prabhu’. In order to show correct name of plaintiff No.2 and father name of the plaintiff No.1, they have produced Ex.P2 to P9 documents which clearly shows that the name of the plaintiff No.2 is Divya Dinesh Prabhu and father name of the plaintiff No.1 is Dinesh Prabhu. The said documents supports the case of the plaintiffs. As stated supra the defendant No.2 already placed as exparte and defendant No.1 appeared through DGP but did not choose file written statement hence there was no cross-examination of PW.1. The said evidence of PW.1 and 2 corroborates with the contents of plaint therefore, there is no contrary evidence to disbelieve the evidence of PW.1 and contents of documents produced on

record. In order to avoid further complications to the plaintiffs, the court opines that it is necessary to make the corrections of the name of the plaintiff No.2 as **Divya Dinesh Prabhu** and father name of the plaintiff No.1 as **Dinesh Prabhu** in plaintiff No1's birth certificate. Taking into consideration, the pleadings and evidence available on record, the court opines that even if the name of the plaintiff No.2 and father name of the plaintiff No.1 is corrected as **Divya Dinesh Prabhu** and father name of the plaintiff No.1 as **Dinesh Prabhu** it does not cause any prejudice to the defendants. It is settled law that the courts should not be too much technical. It is an admitted fact that except the civil court, the plaintiffs has no forum to seek correction of his name as contended. Considering the fact of unrebutted and unchallenged evidence of PW.1 and 2 and also taking into consideration, the above said facts the court opines that if the relief claimed by the plaintiffs is declared as sought, it will not cause any kind of prejudice to the defendants. Hence, relying upon the above said facts and circumstances of the case and on oral evidence of PW.1, **the court proceeds to answer Point No.1 in the Affirmative.**

**13. POINT No.2:-** This point is with respect to relief of mandatory injunction, plaintiff has already proved point no 1. Therefore considering all these aspects of the case and totality of the circumstances, the plaintiffs by leading cogent and convincing evidence before the Court and if the wrong entries as stated above continued to remain in the birth certificate of plaintiff No 1, he will face inconvenience in his future. After considering all these facts and circumstances of the case, this Court is of the opinion that the PW1 and 2 established that correct name of the plaintiff No.2 as **Divya Dinesh Prabhu** and father name of the plaintiff No.1 as **Dinesh Prabhu** required to be mentioned as sought in his birth certificate. Therefore, the plaintiffs are also entitled for the reliefs as sought for. Accordingly, **the court proceeds to answer Point No.2 in the Affirmative.**

**14. POINT No. 3 :** In view of the above said discussion, the court proceeds to pass following:

**ORDER**

***The suit of the plaintiff is hereby decreed.***

***It is hereby declared that the correct name of the plaintiff No.2 as Divya Dinesh Prabhu and father name of the plaintiff No.1 as Dinesh Prabhu.***

***Further the defendant No.2 is hereby directed to make corrections in the names as mentioned above in the birth Certificate of plaintiff No 1 by way of Mandatory Injunction.***

***Having regard to the facts and circumstances of the case there shall be no order as to costs.***

***Draw decree accordingly.***

(Directly dictated to the stenographer on Computer, the same is edited, revised and corrected by me and then pronounced in the Open Court on this the 7<sup>th</sup> day of October 2023).

**(Suman Chitargi)  
IV Addl. Civil Judge & JMFC,  
Belagavi.**

**ANNEXURES**

**Witness examined for the Plaintiff :-**

PW.1 : Divya Prabhu

PW.2 : Vighnesh Prabhu

**Ex.documents marked for the Plaintiff :-**

Ex.P1 :Birth Certificate

Ex.P2 : Original Aadhar Card of plaintiff No.2

Ex.P3 : Original passport of plaintiff No.2

Ex.P4 : Original Pan Card of plaintiff No.2

Ex.P5 : Original Aadhar Card of plaintiff No.1

Ex.P6 : Original Pan Card of plaintiff No.1

Ex.P7 & P8: Original Performance Report Cards

Ex.P9 : Original identity certificate

**Witness/Ex. documents marked for the defendants:-**

-Nil-

**(Suman Chitargi)**  
**IV Addl. Civil Judge & JMFC,**  
**Belagavi.**