



**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**

**DATED THIS THE 25<sup>TH</sup> DAY OF JUNE, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR**

**REGULAR SECOND APPEAL NO. 100023 OF 2026**

**BETWEEN:**

1. KUMAR ARUSH  
S/O RAKESH KALADAGI  
AGED ABOUT 19 YEARS  
OCC STUDENT  
R/O GOULIGALL, MALMADDI  
DHARWAD – 580 007.

...APPELLANT

(BY SRI. S R HEGDE, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
R/BY DEPUTY COMMISSIONER  
D C COMPOUND  
DHARWAD – 580 001.
2. THE DEPUTY COMMISSIONER OF PUBLIC  
INSTRUCTION (D.D.P.I)  
D.D. P.I OFFICE, D.C.COMPOUND  
DHARWAD – 580 001.
3. THE BLOCK EDUCATION OFFICER  
DHARWAD CITY ZONE  
DHARWAD – 580 008.
4. THE HEAD MASTER  
BASEL MISSION ENGLISH MEDIUM  
HIGH SCHOOL  
DHARWAD – 580 001.





5. THE HEAD MASTER  
NEW ERA SCHOOL, MALMADDI,  
NEAR RAGHAVENDRA SWAMI MATH  
DHARWAD – 580 007.

...RESPONDENTS

(BY SRI. ABHISHEKH MALIPATIL, HCGP FOR R1 TO R3;  
R4 & R5 N/D/W)

THIS RSA IS FILED U/SEC.100 OF CPC, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED BY THE PRL. SENIOR CIVIL JUDGE AND CJM DHARWAD IN R.A.NO.35/2022 DATED 08.09.2025 FILED AGAINST THE JUDGMENT AND DECREE PASSED BY THE PRL. CIVIL JUDGE AND JMFC, DHARWAD IN O.S.NO.610/2019 DATED 28.01.2022 IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

### **CAV JUDGMENT**

This Regular Second Appeal is filed by the plaintiff questioning the judgment and decree dated 08.09.2025 passed in R.A.No.35/2022 by the Principal Senior Civil Judge and CJM, Dharwad<sup>1</sup>, which set aside the judgment and decree dated 28.01.2022 passed in O.S.No.610/2019 by the Principal Civil Judge and JMFC, Dharwad.<sup>2</sup> Thereby,

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<sup>1</sup>hereinafter referred to as 'the First Appellate Court' for short

<sup>2</sup>hereinafter referred to as 'the Trial Court' for short



the suit filed for declaration and mandatory injunction to correct the name of the minor plaintiff which was decreed but set aside by the First Appellate Court. Hence, against the divergent findings of the First Appellate Court and the Trial Court, this regular second appeal is filed.

2. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

**PLANTIFF'S CASE:**

3. The plaintiff has filed a suit for declaration and mandatory injunction that the plaintiff's correct name is "Aarush" instead of "Shahid" and his caste is "Hindu Gouli" instead of "Muslim" and to direct the defendants to make corrections to the name of the plaintiff as "Aarush" and caste as "Hindu Gouli".



4. It is the case of the plaintiff that the plaintiff's name is "Aarush", who is the son of Rakesh Kaladagi and at the time of admission in the school of defendant No.4, due to oversight, the name of the plaintiff was wrongly shown as "Shahid" instead of "Aarush" and the caste of the minor plaintiff was wrongly mentioned as "Muslim" instead of "Hindu Gouli". However, defendant No.4 is informed that it has to be corrected only through the process of the Court. Hence, being left with no other option, the plaintiff was constrained to file the suit. Therefore, the present suit is filed for correction of the name and caste of the plaintiff in the school records.

**DEFENDANTS' CASE:**

5. Defendant Nos.1 to 3 and 5 in the written statement have contended that the plaint of the plaintiff is not maintainable and the suit filed without issuing notice under Section 80 of Code of Civil Procedure (for short 'CPC') is not maintainable. Further, they have raised contention that the particulars of the name of the plaintiff



and caste name of the plaintiff are as per the information given by the father of the plaintiff and were accordingly entered in the school records and hence, there is no scope for making corrections in the school records. It is further contended that the suit in this regard is not maintainable under Section 9 of CPC. Therefore, prayed to dismiss the suit.

**ISSUES:**

6. Based on the pleadings, the Trial Court has framed the following issues:

- i. Whether the plaintiff proves that, his correct name is "Aarush" but not "Shahid" and his caste is "Hindu Gouli" but not "Muslim"?*
- ii. Whether the plaintiff is entitle for the relief of declaration as prayed for?*
- iii. Whether the plaintiff is entitle for the relief of Mandatory injunction as prayed for?*
- iv. What decree or order?*

7. In order to prove the case, the father of the minor plaintiff, namely Rakesh Kaladagi is examined as



PW-1 and produced documentary evidence and got marked them as Exs.P-1 to P-6(a). On behalf of the defendants, there is no oral and documentary evidence.

**FINDINGS OF TRIAL COURT:**

8. Upon appreciating the evidence on record, the Trial Court decreed the suit granting the relief that the plaintiff's correct name is declared as "Aarush" instead of "Shahid" and the caste is "Hindu Gouli" instead of "Muslim". Accordingly, by way of mandatory injunction, the Trial Court directed the defendants to carry out the corrections of the name and caste of the plaintiff as stated above. The reasonings assigned by the Trial Court is that the father of the plaintiff produced Ex.P-1-birth certificate of the minor plaintiff and Ex.P-6-Aadhar Card and Ex.P-2-Backward Class certificate and Ex.P-3-Transfer Certificate.

9. Upon perusal of the same, the name of the plaintiff is found to be "Aarush" and the caste name is found to be "Hindu Gouli". Therefore, when the name of



plaintiff's father is found to be Rakesh Kaladagi and the caste is "Hindu Gouli", naturally the caste or religion of the parents will be followed by the children. Hence, when the father belongs to the caste "Hindu Gouli", there is no impediment to believe that the caste of the plaintiff is also "Hindu Gouli".

10. Further, it is observed that in Ex.P-4-certificate issued by defendant No.4-school, namely the transfer certificate, the plaintiff's name is wrongly mentioned as "Shahid Kaladagi" and the caste is wrongly mentioned as "Muslim"; therefore, by the documentary evidence, the plaintiff has proved that the correct name of the plaintiff is "Aarush" and belongs to the caste of "Hindu Gouli". Further, it is observed that the Tahasildar, Dharwad Taluk, Dharwad, has also issued caste and income certificates pertaining to the father and sister of the minor plaintiff. According to it, when they belong to the caste of "Hindu Gouli", quite naturally, the minor plaintiff also belongs to



the same caste as that of father and sister. Hence, decreed the suit as prayed for.

**GROUND'S RAISED IN THE FIRST APPEAL:**

11. Being aggrieved by the judgment and decree passed in the suit, the defendants, namely the State of Karnataka, the Director of Public Instructions and the Block Education Officer have preferred a regular appeal before the First Appellate Court by raising various grounds. One of the grounds urged in the memorandum of appeal by the State and its departments is that the suit for correction of name and caste name is not maintainable as per Section 9 of CPC. The First Appellate Court has framed a specific point for consideration regarding the maintainability of the suit. Having considered the nature of the suit filed, the First Appellate Court, after referring to various judgments of the Hon'ble Supreme Court and this Court has held that the suit filed by the plaintiff is not maintainable and accordingly set aside the judgment and decree passed by the Trial Court.

**REASONINGS OF FIRST APPELLATE COURT:**

12. The First Appellate Court has assigned reasons that there is a statutory bar to entertain a suit for declaration of caste and religion, etc. It is observation made by the First Appellate Court that even according to the plaintiff, the caste details were wrongly mentioned by defendant No.4-school, the same can be redressed by filing a necessary application before the District Caste Verification Committee (for short 'DCVC') headed by the Deputy Commissioner of Dharwad. Without approaching the said committee, the filing of the suit by the plaintiff is without jurisdiction.

13. Further, it is observed that Ex.P-3 is the transfer certificate of the father of the minor plaintiff, but there are no particulars of caste and religion in the said transfer certificate of the father of the minor plaintiff; therefore, the Trial Court ignored this aspect and relied on the caste certificate of Kumari Tanu Kaladagi, which does not establish the plaintiff's caste and religion.



14. Further, the First Appellate Court observed that there is no evidence that the plaintiff's father belongs to the "Hindu Gouli" caste and the name of the plaintiff is "Aarush" but not "Shahid"; therefore, on these reasons, set aside the judgment and decree passed by the Trial Court.

**REGULAR SECOND APPEAL:**

15. Being aggrieved by it, the appellant/plaintiff has preferred this regular second appeal by raising various grounds in the memorandum of appeal and also by pleading that substantial questions of law are involved in the appeal for consideration.

**SUBMISSION TO COUNSEL FOR APPELLANT/  
PLAINTIFF IN REGULAR SECOND APPEAL:**

16. Learned counsel appearing on behalf of the appellant/plaintiff submitted that the plaintiff's name is "Aarush" and belongs to the caste of "Hindu Gouli", but while admitting to defendant No.4-school, his name was wrongly entered as "Shahid" and the caste name was



wrongly entered as "Muslim". However, there is ample evidence to prove that the plaintiff's name is "Aarush" and that he belongs to the caste of "Hindu Gouli". In this regard, the plaintiff has produced documentary evidence, which is correctly appreciated by the Trial Court, but the First Appellate Court, with a perverse finding contrary to the evidence on record has held that the plaintiff does not have proof that he belongs to the caste of "Hindu Gouli". Hence, it is submitted that the finding given by the First Appellate Court is perverse and is illegal.

17. Further submitted that the plaintiff is not taking the benefit of reservation at this stage, but his prayer is only to correct the name of plaintiff in the school records and the caste name. Therefore, it is a civil right of the plaintiff to get his name and caste name corrected and thus, the suit is maintainable under Section 9 of the CPC for exercising his civil right.



18. Further, it is submitted that the First Appellate Court has misconceived the provisions of law that it is only the DCVC has jurisdiction, but the duties and functions of the DCVC are different and it is only to ascertain at the time of seeking job particulars by the candidates that the committee shall verify the particulars of caste and the name of the plaintiff, but the committee does not have jurisdiction to decide the civil right of the plaintiff; therefore, the First Appellate Court has misconceived the facts, circumstances and provisions of law in this regard and thus given a perverse finding.

19. Further, it is submitted that the First Appellate Court without appreciating the difference in facts in the cited judgment has mechanically and blindly applied the said citations to the facts and circumstances in the present case, but the ratio laid down in the decisions relied on by the learned counsel appearing for the appellant is different. Hence, the citations relied on by the First Appellate Court are not applicable. Therefore, prays to



allow this regular second appeal by setting aside the judgment and decree passed by the First Appellate Court and confirming the judgment and decree passed by the Trial Court.

20. In support of the arguments, learned counsel appearing on behalf of the appellant places reliance on the following judgments:

- i. STATE OF KARNATAKA VS. VARADASHANKAR CHINNAPPA JAVALGI<sup>3</sup> (Varadashankar Chinnappa Javalgi's case)**
- ii. STATE OF T.N. AND OTHERS VS. A. GURUSAMY<sup>4</sup> (A. Gurusamy's case)**
- iii. SRISH KUMAR CHOUDHURY VS. STATE OF TRIPURA AND OTHERS<sup>5</sup> (Srish Kumar Choudhury's case)**
- iv. S. SWVIGARADOSS VS. ZONAL MANAGER, F.C.I.<sup>6</sup> (S. Swvigaradoss's case)**
- v. THE GOVERNMENT OF KARNATAKA, REP., BY DEPUTY COMMISSIONER AND OTHERS VS. KUMARI SHILPA SHRISHAIL**

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<sup>3</sup>ILR 1996 KAR 3693

<sup>4</sup>(1997) 3 SCC 542

<sup>5</sup>1990 (Supp) SCC 220

<sup>6</sup>(1996) 3 SCC 100



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***BARAGADAGI AND ANOTHER<sup>7</sup> (Kumari Shilpa Shrishail Baragadagi's case)***

***vi. KUMARI MADHURI PATIL AND ANOTHER VS. ADDL. COMMISSIONER, TRIBAL DEVELOPMENT AND OTHERS<sup>8</sup> (Kumari Madhuri Patil's case)***

***vii. DAYARAM VS. SUDHIR BATHAM AND OTHERS<sup>9</sup> (Dayaram's case)***

***viii. K.P. MANU VS. CHAIRMAN, SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY CERTIFICATE<sup>10</sup> (K.P. Manu's case)***

***ix. HARENDRA CHANDRA NATH & OTHERS VS. BIJOY KRISHNA NATH & OTHERS<sup>11</sup> (Harendra Chandra Nath's case)***

**SUBMISSIONS OF ADDITIONAL ADVOCATE GENERAL:**

21. On the other hand, learned Additional Advocate General appearing on behalf of the respondents/defendants submitted that the Civil Courts do not have jurisdiction to decide the correction of name and caste and places reliance on the judgments of Hon'ble

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<sup>7</sup>ILR 2014 KAR 5389

<sup>8</sup>(1994) 6 SCC 241

<sup>9</sup>(2012) 1 SCC 333

<sup>10</sup>(2015) 4 SCC 1

<sup>11</sup>(1993) 1 Gauhati Law Reports 36



Supreme Court and this Court. Further, it is submitted that the only authority lies with the DCVC to adjudicate the correction of name and caste; therefore, it is submitted that the jurisdiction of the Civil Court is barred and the judgment and decree passed by the First Appellate Court is justified. Hence, prays to dismiss the appeal.

**SUBSTANTIAL QUESTIONS OF LAW:**

22. Upon hearing the arguments of both the learned counsel appearing on behalf of the appellant/plaintiff and learned Additional Advocate General appearing on behalf of the respondents/defendants, the following substantial questions of law arise for my consideration:

- i. Whether, under the facts and circumstances involved in the case, the suit filed for correction of name of minor plaintiff and name of caste is maintainable as it is exercise of civil right under section 9 of Code of Civil Procedure?*



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- ii. *Whether, under the facts and circumstances involved in the case, the judgment and decree passed by the First Appellate Court is justified in scuttling the right of the plaintiff for correcting the name of the minor plaintiff and the caste name of the plaintiff in the school records?*
- iii. *Whether, under the facts and circumstances involved in the case, the First Appellate Court is justified in dismissing the suit filed by the plaintiff for entering the correct name and caste name in the school records, even though the plaintiff has not sought for any relief of claiming benefit of reservation or admissions?*

**REASONINGS:**

23. The plaintiff has filed the suit for declaration simpliciter to declare that his correct name is "Aarush" and to correct the caste name as "Hindu Gouli". It is the case of the plaintiff that at the time the plaintiff was born, his parents had put his name as "Aarush" and his father's name is "Rakesh Kaladagi" and the entire family belong to



the caste "Hindu Gouli". Therefore, the plaintiff is claiming that his prayer for rectification of his name and the caste name and is emanating from his father and from the family records. The plaintiff has filed the suit for exercising his civil right; therefore, filed the suit for declaration as discussed above.

24. The Trial Court has decreed the suit by entertaining it holding that the suit is maintainable under Section 9 of the CPC, but the First Appellate Court has reversed the judgment and decree passed by the Trial Court holding that the suit is not maintainable as per Section 9 of the CPC and has also discussed the merits by appreciating the evidence on record, thereby dismissing the suit on two reasons. One is that the suit is not maintainable and the second is on merits that the plaintiff failed to prove his case.

25. This Court in the case of ***SRI. VEERAPANDI A., AND OTHERS VS. STATE OF KARNATAKA AND***



***OTHERS***<sup>12</sup> (***Veerapandi A. and others case***) has held that for correction of name and for correction of name of the caste, the civil suit is maintainable.

26. Considering the principle of law laid down by the Hon'ble Supreme Court as relied on by the learned Additional Advocate General and distinguishing the factual matrix involved in the above cited cases, here, the plaintiff is exercising his civil right for correction of his name and correction of the name of the caste. It is the case of the plaintiff that his real name is "Aarush", but while admitting him to the school of defendant No.4, his name was wrongly entered as "Shahid". Further, it is the case of plaintiff that he belongs to the caste of "Hindu Gouli", but the caste was wrongly entered as "Muslim"; therefore, correction of the names in this regard is civil right of the plaintiff.

27. As per the plaintiff's contention, his name and caste name have been completely changed into a different

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<sup>12</sup>RFA No.1793/2019 dated 18.02.2025



religion depriving him of his civil right, legal right and constitutional right. Here, it is pertinent to mention that in the suit, the plaintiff has not claimed any benefit of reservation out of correction of his name and the name of the caste. When a person is born to his parents, his civil right accrues at the very moment he is born and the parents belong to which community/caste, that is applicable to the child also. No person can be born of his choice of his parents and of his community. It is the blessings of God. In this regard, the civil right of the plaintiff is to be recognized; therefore, the statute cannot take away civil right which the plaintiff has accrued by his birth.

28. In this regard, the arguments canvassed by the learned AAG are to be considered when argued with reference to the enactment namely Karnataka Scheduled Castes and Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.) Act, 1990.



29. Learned Additional Advocate General with reference to the Act, 1990 argued that it is District Caste Verification Committee only to pass order with regard to caste or religion but not by the Civil Court. The argument of learned Additional Advocate General cannot be accepted that the Civil Court does not have jurisdiction for the reasons of perusing the object and reasons and preamble of the Act, 1990.

30. The object and reasons of the Karnataka Scheduled Castes and Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.) Act, 1990, is as follows:

*"An Act to provide for the reservation of appointments or posts in favour of the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes in the State Civil Services and establishments in the Public sector and in admission to Universities and to the Educational Institutions established or maintained or aided by the State Government.*

*Whereas, the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes of citizens are not adequately represented in the services or posts in the State Civil Services and establishments in Public sector and among the students admitted to the*



*Universities and to Educational Institutions established or maintained or aided by the State Government;*

*And whereas, it is expedient to provide in favour of them such reservation;"*

31. As per the preamble, object and reasons of the Act, 1990, it is fundamental for providing reservation to the appointments on admission or posts in favour of the members of SC, ST and OBC in the State Civil Services and establishments in Public Sector and admission to the Universities and to the Educational Institutions. Further, the reasons for enacting the Act, 1990 is that the members of SC, ST and OBSs' are not adequately represented in the services or posts in the State Civil Services and establishments in public sector and among other students admitted to the universities and to the educational institutions. Therefore, for giving effective representations to SC, ST and OBC as per aspirations of Constitution of India for providing reservation, this Act, 1990, is enacted. Therefore, the sum and substance of enacting the Act, 1990 is to provide reservations to SC, ST



and OBCs. Therefore, under this Act, 1990, the Commissioner has issued circulars.

32. But, in the present case, the plaintiff is not claiming any reservation or benefits for claiming reservation etc., Simply what the plaintiff is seeking is declaration that his correct name is "Aarush Kaladagi" belong to "Hindu Gouli" caste. Therefore, to include in the school records, while admitting the plaintiff to the school his name is "Aarush Kaladagi". Except for this purpose, there is no pleading or prayer in the suit. Therefore, in this regard, the defendants have failed to understand the whole scheme of the suit framed by the plaintiff. Even, still the DCVC will have power to make verification and scrutiny of the caste of the plaintiff in case if the plaintiff makes claim reservations on his caste. What the prayer in the suit is to change the name as "Aarush" instead of "Shahid". In future, the plaintiff makes claim of any reservation on the basis of his caste, then the DCVC shall have power in this regard, but at this stage itself scuttling



the civil right of the plaintiff declining the prayer of the plaintiff at threshold is violation of fundamental right of the plaintiff not only civil rights. The plaintiff has filed a suit for exercising his civil right to make correction of his name and caste name in which community he is born. It is not at the hands of the plaintiff to choose his caste/community by birth, but it is right of the plaintiff to recognize himself to a particular caste/community according to his birth. Therefore, in this regard, the First Appellate Court has misconceived itself in allowing the regular appeal filed by the State/defendants. It is still duty cast on the plaintiff to prove that he belong to "Hindu Gouli" caste/community and his correct name is "Aarush Kaladagi", but without appreciating the documentary evidence properly, allowing the regular appeal filed by the defendants, is violation of right of the plaintiff.

33. In India, every person born to parents belongs to certain caste or community as per their parents caste/community and the recognition is by birth, thus,



choosing caste/community is not at the hands of the person who is born. When in this country, recognition of particular person is with caste/community, then to continue to be recognized with that particular caste or community is also his fundamental right. Therefore, for exercising this right, in order to recognize plaintiff himself belonging to "Hindu Gouli" caste and his correct name is "Aarush" has filed a suit to include his name as "Aarush" and caste name "Hindu Gouli" in school records. Accordingly, sought for relief of declaration by filing the suit. The plaintiff is not claiming other reliefs except to change his name as "Aarush" and caste name as "Hindu Gouli" in the suit. If the plaintiff claims that the caste "Hindu Gouli" belongs to SC and SC or OBC and whether the "Hindu Gouli" caste belongs to SC or ST or OBC that is different domain to be examined by the DCVC as per provision of the Act of 1990 and its allied rules. The Scrutiny Committee/Verification Committee decides the question whether the particular caste is coming within the



Scheduled Castes or Scheduled Tribes or Other Backward Classes based on the materials/evidence to be place before it.

34. In our country, no person shall be remained in a neutral, independent of any caste or community, unless, it is choice by that person to remain neutral. Therefore, in this reality in life and legal position, the defendants are mis-conceived of the fact and misinterpreting the law in this regard have erroneously contended that the suit is not maintainable. The defendants are correct if the plaintiff is claiming the benefit of caste and is attempting to take any employment on the basis of the caste but that is not so in the case on hand. Thus, in this way, the suit filed is very well maintainable as per Section 9 of the CPC. In ***Kumari Madhuri Patil's*** case (supra) and in ***Dayaram's*** case (supra), what is held by Hon'ble Apex Court regarding ouster of jurisdiction of Civil Court as per Section 9 of CPC is against the order passed by the Scrutiny Committee/Verification Committee, the suit is not



maintainable and also for claiming relief in the suit that such particular caste is coming within the category of SC or ST or OBC, the suit is not maintainable. But in the present case, the plaintiff is claiming in the suit that he belongs to "Hindu Gouli" caste by birth and his correct name is "Aarush". Hence, attained the original recognition of "Hindu Gouli" by birth and his correct name is "Aarush". This is the only prayer made in the suit. Therefore, in this regard the First Appellate Court has misconstrued the factual matrix and reality involved in the present case and in the cited case but has erroneously held that the suit is not maintainable. Therefore, the suit filed by the plaintiff according to the facts pleaded and prayer made therein is very well maintainable.

35. The rulings relied on by the learned AAG are considered and they are distinguished as they have different set of facts and circumstances in the instant case.



36. The Hon'ble Supreme Court in the case of **A. Guruswamy's** case (supra) at Paragraph No.3 has held as follows:

**"3.** *The only question is whether the suit is maintainable. By operation of Section 9 of CPC, a suit of civil nature cognizance of which is expressly or by implication excluded, cannot be tried by any civil court. The declaration of the President of India, under Articles 341 and 342 of the Constitution, with respect of lists of the Scheduled Castes and Scheduled Tribes in relation to a State, that a particular caste or tribe as defined in Article 366(24) or (25) respectively, is conclusive subject to an amendment by Parliament under Articles 341(2) and 342(2) of the Constitution. By necessary implication, the jurisdiction of the civil court to take cognizance of and give a declaration stands prohibited. The question then is whether the respondent has been given an opportunity to establish his case before the authorities cancelled his community certificate obtained by him? The order of the District Collector dated 2-12-1991 clearly mentions that an opportunity was given to the respondent and he himself had examined him. The District Collector does not decide it like a suit. What he does is an enquiry complying with the principles of rational (sic natural) justice. He considered his stand, namely, one of the sale deeds of 1962 in which his status was declared as Kattunaicken but the same was disbelieved by the District Collector before cancellation. It is a self-serving document. The authority had, therefore, given an opportunity to the respondent to establish his status and found that the certificate previously obtained was wrong and illegal. Accordingly, he cancelled the certificate given to the respondent on 23-1-1971. It is then contended by the learned counsel for the respondent that the guidelines had been given by the Collector in the manner in which the enquiry is to be conducted and the synonyms are to be taken and in pursuance thereof, the Revenue Division Officer granted him the certificate. We find that the stand taken is not correct. The guidelines are only to identify the persons and not to give a declaration as to which*



*community comes under a particular entry of the Presidential Notification. It is then contended that the respondent has been given the right to enjoy the status right from 1971 and, therefore, the principle of estoppel applies to him. We find that it has no force. It is a fraud played on the Constitution. A person who plays fraud and obtains a false certificate cannot plead estoppel. The principle of estoppel arises only when a lawful promise was made and acted upon to his detriment; the party making promise is estopped to resile from the promise. In this case, the principle of estoppel is inapplicable because there is no promise made by the State that the State would protect perpetration of fraud defeating the constitutional objective; no promise was made that his false certificate will be respected and accepted by the State. On the other hand, he is liable for prosecution. The courts would not lend assistance to perpetrate fraud on the Constitution and he cannot be allowed to get the benefit of the fraudulent certificate obtained from the authorities. The declaration issued by the courts below is unconstitutional and without jurisdiction."*

37. The facts in cited case are that the respondent was studying in the school, he was described as a member of "Totti" community. The Presidential Notification issued under Article 341(1) of the Constitution of India read with Article 366(24) of the Constitution notifies "Totti" to be a Scheduled Caste as Item No.67 of the Presidential Notification. Subsequently, in 1970, the respondent had obtained a certificate from the Revenue Divisional Officer indicating him to be "Kattunaicken" as item Item No.9 of



the list of the Scheduled Tribes in the State of Tamilnadu issued by the President under Article 342(1) read with Article Article 366(2) of the Constitution. Subsequently, the respondent had applied for permanent certificate; on that basis an enquiry was conducted and it was found that the respondent was not a Scheduled Tribe but is a Scheduled Caste. Accordingly, the certificate came to be cancelled. Impugning the said cancellation, the respondent filed a civil suit for declaration that he is "Kattunaicken" as a Scheduled Tribe. In this regard the suit filed by the respondent is decreed and affirmed by the High Court of Madras. In these factual matrixes, the Hon'ble Supreme Court held that the suit is not maintainable as per Section 9 of CPC. But in the present case on hand the plaintiffs are not claiming change of caste and questioning any order of District Caste Verification/Scrutiny Committee or any order. Therefore, due to difference in factual matrix in the above stated case and in the present case, the said judgment is not applicable in the present case.



38. Further, the Hon'ble Supreme Court in **Srish Kumar Choudhury's** case (Supra) at Paragraph Nos.15, 16, 17, 21 and 22 has held as follows:

**"15.** *Bhaiya Ram's case (AIR 1971 SC 2533), the tribe specified in the Scheduled Tribes Order was Munda. The respondent was a Patar but he maintained that it was included in the notified tribe. The Bench was of the view that evidence was admissible for the purpose of showing what an entry in the Presidential Order was intended to mean though evidence could not be accepted for modifying the Order by including a new tribe. Since the respondents' case was that Patars were Mundas, evidence could be given to show that the entry 'Munda' included 'Patar'.*

**16.** *These authorities clearly indicate, therefore, that the entries in the Presidential Order have to be taken as final and the scope of enquiry and admissibility of evidence is confined within the limitations indicated. It is, however, not open to the court to make any addition or subtraction from the Presidential Order.*

**17.** *The evidence in this case on which reliance has been placed in support of the claim that Laskars are included in the tribe described as 'Tripura/Tripuri/Tippera' mainly consists of two circulars of the erstwhile State of Tripura. Circular No.9 is of December 1930. There is a narration therein to the following effect:*

*In this State Tripura Sampradaya means the following five communities:*

1. Puritan Tripura
2. Deshi Tripura (related to Laskar class)
3. Noatia
4. Jamatia
5. Riang.

**18.** xxx



**19.** xxx

**20.** xxx

**21.** Reservation has become important in view of the increasing competition in society and that probably had led to the anxiety of the appellant and the people in his community to claim reservation. As pointed out by the Constitution Bench judgments which we have referred to above, the basis on which inclusion into or exclusion from the enumerated list made under Art. 342 is contemplated is the changing economic, educational and other situations of the members of any particular tribe. Keeping that in view the State Government may initiate appropriate proposals for modification in case it is satisfied and after appropriate enquiry if the authorities are satisfied that the claim is genuine and tenable, amendment may be undertaken as provided by the Constitution.

**22.** This Court has indicated in some of the judgments referred to above that as a result of the detailed enquiry made as to the economic status, the level of education and the necessity of protection, inclusion into or exclusion from the Order is made. The material relating to the Laskar tribe in 1930 or 1941 may not have been considered sufficient before the respective Orders were made for including the Laskars, said to have been covered by the description of Deshi Tripura. Therefore, even if historically this tribe was covered by the general description of Tripura, that by itself may not justify its inclusion in the Order as a scheduled tribe. That is an additional feature which has weighed with us in taking our decision not to interfere in the matter."

39. The facts in the cited case are that the appellant is a resident of Tripura State and claims to belong to the Laskar Community, which is recognized as a Scheduled Tribe in the erstwhile State of Tripura. Members



of the Laskar Community freely enjoyed all the benefits available to members of the Scheduled Tribes until in 1976. When the State Government decided to treat members of that community as not belonging to the Scheduled Tribes and issued instructions to the State Authorities to implement this decision. Therefore, the appellant filed writ petition before the Guwahati High Court, requesting to be recognized as belonging to Scheduled Tribe Community since he is a member of Laskar Community. The contention of the State Government was that Laskar Community was not a Scheduled Tribe, in this friction the dispute went up to the Hon'ble Supreme Court. Therefore, there was no issue regarding maintainability of the suit in the aforementioned judgment. Thus, given the distinguishable features of the facts in the present case, the above decision is not applicable in the present case.



40. Further, the Hon'ble Supreme Court in **S. Swvigaradoss's** case (supra) at Paragraph No.8 has held as follows:

*"8. The Courts, therefore, have no power except to the effect to the notification issued by the President. It is settled law that the Court would look into the public notification under Article 341(1) or Article 342(1) for a limited purpose. The notification issued by the President and the Act of Parliament under Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 and the Schedules appended thereto can be looked into for the purpose to find whether the castes, races or tribes are (sic or) parts of or groups within castes, races or tribes shall be Scheduled Castes for the purposes of the Constitution. Under the Amendment Act, 1976, again Parliament has included or excluded from schedules appended to the Constitution which are now conclusive. Schedule I relates to Scheduled Castes and schedule II relates to Scheduled Tribes. Christian is not a Scheduled Caste under the notification issued by the President. In view of the admitted position that the petitioner was born of Christian parents and his parents also were converted prior to his birth and no longer remained to be Adi-Dravida, a Scheduled Caste for the purpose of Tirunelveli District in Tamil Nadu as notified by the President, petitioner cannot claim to be a Scheduled Caste. In the light of the constitutional scheme civil court has no jurisdiction under Section 9 of CPC to entertain the suit. The suit, therefore, is not maintainable. The High Court, therefore, was right in dismissing the suit as not maintainable and also not giving any declaration sought for."*

41. The facts in the cited case are that the petitioner's parents were got converted to Christian religion prior to his birth. The petitioner was born in the



Christian religion, but later, for the purpose of claiming reservations, he stated that he belonged to Adi-Dravida community. Also, the petitioner married a Christian girl. By claiming the status as Adi-Dravida, he got employment in the Government. Therefore, the Government issued a notice for initiation of proceedings, then the petitioner has filed suit. The Hon'ble Apex Court held that the suit, in this context, was not maintainable under Section 9 of CPC. Therefore, since the petitioner was a Christian born to Christian parents and claimed his caste as Adi-Dravida, therefore, his prayer was turned down as the suit is not maintainable. In view of this difference in factual matrix between the cited case and in the present case, the above cited decision is not applicable. In the present case the plaintiff is not claiming that he belong to SC or ST or OBC. What simply the prayer of the plaintiff is that he belongs to "Hindu Gouli" caste. Whether he belong to "Hindu Gouli" caste or not is the subject matter for adjudication in the suit. The plaintiff may be able or may not be able to prove



his caste as "Hindu Gouli" and this disputed fact is purely matter of adjudication before the Civil Court. The plaintiff in the present suit has not claimed his caste belong to SC or ST or OBC. Therefore, this difference in the factual matrix makes the above said judgment is not applicable in the present case.

42. Further, this Court in ***Kumari Shilpa Shrishail Baragadagi's*** case (supra) has discussed that respondent claimed that she belong to Hindu Hatagar a backward community, but wrongly entered in the school records as Hindu Lingayat which is a forward caste; therefore, filed suit for claiming benefit of reservations hence it was held that the suit is not maintainable. Therefore, the facts in the cited case are that in the school records the caste is wrongly mentioned as Hindu Lingayat, but she was claiming belong to Hindu Hatagar community for claiming benefit of reservations. Under these circumstances it was held that the suit is not maintainable in view of Section 9 of the CPC.



43. Here in the present case, the plaintiff has not claimed that he is belonging to SC or ST or OBC. It is simple prayer in the suit to enter in school records as he belong to "Hindu Gouli" caste and his correct name as "Aarush Kaladagi". Therefore, difference in the factual matrix in the above cited case and in the present case therefore, the above said judgment is not applicable to the present set of facts and circumstances.

44. Further, the Hon'ble Apex Court in ***Kumari Madhuri Patil's*** case (supra), were pleased to issue guidelines at Paragraph No.13, which is held as follows:

**"13.** *The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at*



*the earliest and with utmost expedition and promptitude. For the purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:*

*1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.*

*2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.*

*3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.*

*4. All the State Government shall constitute a Committee of three officers, namely (I) an Additional or Joint Secretary or any officer concerned, (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.*

*5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the*



*place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.*

*6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an enquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the*



*objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.*

*7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.*

*8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.*

*9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.*

*10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.*

*11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.*



12. *No suit or other proceedings before any other authority should lie.*

13. *The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge, then no further appeal would lie against that order to the Division Bench but subject to special leave under Article 136.*

14. *In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.*

15. *As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post."*

45. In this cited case, the facts are that the appellant had fraudulently obtained Schedule Tribe certificate by approaching proper authority. Later on during her fag end of academic carrier in completion of her



medical course, it was found that the said obtaining of certificate is by way of fraudulent means and was about to complete her medical course and to appear in the examination. But her younger sister was not given the said benefit. It was held that the appellant to which caste she claimed to belong to 'Koli' is coming within the category as Other Backward Classes but not Scheduled Tribe as per Constitution (Scheduled Tribe) Order, 1950. Therefore, in the cited case, it was the subject matter that the appellant had fraudulently obtained certificate claiming to belong to Scheduled Tribe category but virtually she belongs to Other Backward Classes and obtained seat in medical course.

46. In this context, the Hon'ble Apex Court has issued guidelines as above cited. But in the present case as above discussed, the facts and circumstances are entirely different from the cited case. Here, the plaintiff is not claiming any certificate that the "Hindu Gouli" caste belongs to either SC or ST or OBC. The prayer in the plaint



is different. Therefore, having difference in factual matrix, the above cited judgment is not applicable on behalf of the contention taken by the defendant-State and other departments.

47. Further, the Hon'ble Apex Court in **Dayaram's** case (supra), by following the directions issued in **Kumari Madhuri Patil's** case (supra), it was held that scheme laid down in **Kumari Madhuri Patil's** case (supra) to continue in force till replaced by suitable legislature. The Hon'ble Apex Court in the above said judgment, in the context of subject matter of claiming reservation on a particular caste, laid down principle of law but in the present case on hand, the question is exercising the civil right of plaintiff that to change the name of caste and plaintiff's name in the school records as "Hindu Gouli" and the name as "Aarush".

48. In the present case on hand, the plaintiff is not claiming benefit of either SC or ST or OBC. The Hon'ble



Apex Court in **Dayaram's** case (supra) held for declaration of particular caste belongs to SC or ST or OBC, the suit is not maintainable. Therefore, this makes difference in the factual matrix in the above cited case and in the present case. Therefore, the above said judgment is not applicable in the facts and circumstances and grounds raised in this appeal. It was laid down in **Kumari Madhuri Patil's** case (supra) and in **Dayaram's** case (supra) against the order passed by the District Caste Verification/Scrutiny Committee of caste, a civil suit is not maintainable as per Section 9 of the CPC. Here, in the present case, there is no order of District Caste Verification/Scrutiny Committee against the plaintiffs. Therefore, this judgment is not applicable in the present case to say that the suit filed is not maintainable as per Section 9 of CPC.

49. The Hon'ble Apex Court in **K.P. Manu's** case (supra), while dealing with the case that while a person being a Hindu converted to another religion and on



reconversion to Hindu religion, then, during the eclipse of original Hindu caste on conversion to another religion, what are the principles applicable are stated at Paragraph Nos.47, 48, 49, 50 and 51 by issuing guidelines as follows:

**"47.** *The two principles that have been stated in the aforesaid paragraph are : (i) that a court can look into the notification by the President and the Act of Parliament under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 and the Scheduled appended thereto for the limited purpose to find out whether the castes, races or tribes are parts or groups within the castes, races or tribes, especially Scheduled Castes for the purpose of Constitution, and it is because what has been included or excluded therein are conclusive; and (ii) that a person born to Christian parents, who initially belonged to the Scheduled Caste, even after his reconversion cannot claim to be a Scheduled Caste. As far as first proposition of law is concerned, there can be no cavil over the same and we respectfully concur. As far as the second principle is concerned, it is essential to note that the authorities of larger Bench in Y. Mohan Rao, Kailash Sonkar and S. Anbalagan were not brought to the notice of the Court in Swvigaradoss case. Irrefragably, the second principle runs contrary to the proposition laid down in the Constitution Bench in Y. Mohan Rao and the decisions rendered by the three-Judge Bench.*

**48.** *When a binding precedent is not taken note of and the judgment is rendered in ignorance or forgetfulness of the binding authority, the concept of per incuria comes into play. In A.R. Antulay v. R.S. Nayak, Sabyasachi Mukherji, J. (as His Lordship then was) observed that: (SCC p. 652, para 42)*

*"42.... 'Per incuriam' are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some inconsistent statutory*



*provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong."*

*"47. ... It is a settled rule that if a decision has been given per incuriam the court can ignore it."*

**49.** *In Union of India v. R.P. Singh, the Court observed thus: (SCC p. 348, para 19)*

*"19. In Siddharam Satlingappa Mhetre v. State of Maharashtra, while dealing with the issue of 'per incuriam', a two-Judge Bench, after referring to the dictum in Young v. Bristol Aeroplane Co. Ltd. And certain passages from Halsbury's Laws of England and Union of India v. Raghbir Singh, had ruled thus: (Siddharam Satlingappa Mhetre case, SCC p. 743, para 138)*

*'138. The analysis of English and Indian law clearly leads to the irresistible conclusion that not only the judgment of a larger strength is binding on a coequal strength is also binding on a Bench of Judges of coequal strength. In the instant case, judgments mentioned in paras 124 and 125 are by two or three Judges of this Court. These judgments have clearly ignored a Constitution Bench judgment of this Court in Sibbia case which has comprehensively dealt with all the facets of anticipatory bail enumerated under Section 438 CrPC. Consequently, the judgments mentioned in paras 124 and 125 of this judgment are per incuriam."*

**50.** *Tested on the aforesaid principles, it can safely be concluded that the judgment in S. Swvigaradoss, as far as the second principle is concerned, is per incuriam.*

**51.** *In the instant case, the appellant got married to a Christian lady and that has been held against him. It has also been opined that he could not produce any evidence to show that he has been accepted by the community for leading the life of a Hindu. As far as the marriage and leading of Hindu life are concerned, we are of the convinced opinion that, in the instant case, it really cannot be allowed to make any difference. The community which*



*is a recognised organisation by the State Government has granted the certificate in categorical terms in favour of the appellant. It is the community which has the final say as far as acceptance is concerned, for it accepts the person, on reconversion, and takes him within its fold. Therefore, we are inclined to hold that the appellant after reconversion had come within the fold of the community and thereby became a member of the Scheduled Caste. Had the community expelled him the matter would have been different. The acceptance is in continuum. Ergo, the reasonings ascribed by the Scrutiny Committee which have been concurred with by the High Court are wholly unsustainable."*

50. The facts in the cited case are that the appellant's great grandfather belongs to 'Hindu Pulaya' community. His son Chothi embraced Christianity and accepted a new name, i.e., Varghese who married Mariam who originally belonged to 'Hindu Ezhava' and later on converted to Christianity. From the wedlock, three sons namely, Varghese, Yohannan and Paulose were born. Paulose is father of the appellant, got married to Kunjamma who was a Christian. The appellant was born on 03.01.1960. Sometime in the year 1984, at the age of 24 converted himself to Hindu religion and changed his name that of K.P. Manu. On the basis of the conversion, he applied for a caste certificate to Akhila Bharata



Ayyappa Seva Sangham. After conversion, the appellant had obtained certificate from the community concerned on 05.02.1984. Then, the Tahasildar who was authorised to issue the caste certificate, had issued the necessary caste certificate. Then, one Sri. Kumar Menon invoked jurisdiction of the Scrutiny Committee challenging the grant of caste certificate to the appellant. The Scrutiny Committee had cancelled the said caste certificate. Therefore, on the basis of the report of Scrutiny Committee, the State Government took action and directed the employer of the appellant to remove him from service and recover a sum of Rs.15,00,000/- towards salary paid to him. Then, the case went to High Court and High Court has upheld the report of the Scrutiny Committee and decision taken for removal of the appellant from service. In this facts and circumstances, the Hon'ble Apex Court had issued directions as above stated.

51. This Court has read over all the judgments and considered principle of law laid down by the Hon'ble Apex



Court and this Court. In the case on hand, the question is whether the suit filed by the plaintiff for seeking declaration that to declare the caste name as "Hindu Gouli" and the correct name is "Aarush" is maintainable in the suit, is to be considered. In the present case, the plaintiff has not sought for any benefits of belonging to SC or ST or OBC. It is not a prayer of the plaintiff that to declare his caste belongs to SC or ST or OBC. Therefore, what endeavour the plaintiff is making that by claiming that originally he was belonging to "Hindu Gouli" community and his correct name is "Aarush" and therefore, for identification purpose with the community, he desires to enter the correct name and caste in the school records.

52. Therefore, as discussed above the plaintiff's suit for change of name and the name of caste is maintainable as per Section 9 of CPC, as the plaintiff is exercising his civil right. As above discussed, a person born to his parents and belonging to a particular caste is not choice of



the plaintiff. It is an act of God, but after birth, the plaintiff has received some recognition and status in society, which is to be protected for the plaintiff. This civil right accrued in favour of plaintiff is an inherent right of the plaintiff. Therefore, by no fault of his, when a mistake has crept in changing the name of the plaintiff and changing name of the caste, it certainly affects his fundamental right; therefore, the civil right accrued in favour of the plaintiff can be equated with the fundamental right as per Article 21 of the Constitution of India and also human rights.

53. If a person chooses a different religion or caste by his choice, it is at his/her wisdom, but here the plaintiff is a minor and did not know the worldly affairs while getting admission to the school. The plaintiff, being a minor, was under the complete mercy of his parents, teachers and society and the plaintiff did not have any choice to change his name and the name of caste or religion. Hence, any error, intentionally or unintentionally occurred, which takes away the civil right of a person can



be corrected in a competent Civil Court; therefore, the Civil Courts have jurisdiction to consider the suit whenever the suit is filed for correction of name and the name of caste. Thus, in this regard, the suit filed by the plaintiff is very well maintainable under Section 9 of the CPC, but at the same time, claiming reservation by such caste/community is not maintainable in the Civil Court. This can be done only under the Karnataka Scheduled Castes and Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.) Act, 1990; therefore, the First Appellate Court has failed to comprehend the distinguishable feature in this regard as above discussed.

54. In the present case, the plaintiff is not claiming any prayer of reservation as per his name and caste, but simply the prayer of the plaintiff is to correct his name and name of caste, as it is the recourse available to the plaintiff by way of correctional remedy by filing a suit in this regard.



55. As discussed above, whether the plaintiff is entitled benefit of caste is the question to be determined by the DCVC under the act. This makes a difference of authority and jurisdiction between the District Verification Committee (DCVC) and the Civil Court. Therefore, if there is any prayer for correction of name, surname, caste and religion, the Civil Court has jurisdiction to adjudicate the same in accordance with law on the basis of the evidence adduced thereto in this regard.

56. Considering the present case, the First Appellate Court has committed error in holding that the Civil Court does not have jurisdiction. The First Appellate Court has misinterpreted the principle of law laid down by the Hon'ble Supreme Court without understanding the facts and circumstance involved in those cases and in a mechanical way has held that the Civil Court does not have jurisdiction. This finding of the First Appellate Court is liable to be set aside. Accordingly, set aside and for the



reasons above stated, the suit filed by the plaintiff for the reliefs claimed is maintainable under Section 9 of CPC.

57. Further, the First Appellate Court has held that the Civil Court does not have jurisdiction, but has also discussed on merits by appreciating the evidence on record and dismissed the suit. The findings given by the First Appellate Court are found to be perverse as they are contrary to the evidence on record.

58. The First Appellate Court while appreciating the documentary evidence Ex.P-3-transfer certificate, observed that in the said Ex.P-3, certificate of caste and religion of the plaintiff is not mentioned. This finding is not correct as it is contrary to the evidence on record. Ex.P-3 is the transfer certificate of father of the plaintiff. The father's name is mentioned as Rakesh Babu Kaladagi and the caste and religion is found at Column-VII as "Hindu Gouli"; therefore, when there is clear mention in Ex.P-3-transfer certificate that the father of the plaintiff belongs



to the caste and religion as "Hindu Gouli", the First Appellate Court has observed that there is no such caste and religion mentioned. The First Appellate Court has not looked into and appreciated the documentary evidence Ex.P-3 properly. Hence, Ex.P-3-transfer certificate of the father of the plaintiff, it is evident that the father of the plaintiff belongs to the caste and religion as "Hindu Gouli".

59. Ex.P-1 is the birth certificate of the plaintiff. In the birth certificate, the name of the plaintiff is mentioned as "Aarush Kaladagi", and the name of the father is stated as "Rakesh Kaladagi" and the mother's name is shown as "Munni Kaladagi". Hence, this Ex.P-1-birth certificate proves the fact that the name of the plaintiff's is "Aarush Kaladagi" and the said birth certificate was registered on 07.08.2007; therefore, at the very initial point of time, the birth of the plaintiff was registered with the authority of Chief Registrar of Births and Deaths and accordingly Ex.P-1-birth certificate is issued.



60. Further, Ex.P-2 is the caste certificate of the sister of the plaintiff. The name of sister is "Tanu Kaladagi" and the father and mother name of the plaintiff are mentioned as "Rakesh Kaladagi" and "Munni Kaladagi" and it is also mentioned that the sister belongs to Backward Class of Category-I and belongs to "Hindu Gouli" caste. Therefore, all these documentary evidence referred above unequivocally and clearly prove the fact that the correct name of the plaintiff is "Aarush Kaladagi" and the caste and religion is "Hindu Gouli". In this regard, the Trial Court has correctly appreciated the evidence on record, but the First Appellate Court has committed error in appreciating the evidence on record.

61. Further, Ex.P-4 is the certificate issued by the 4<sup>th</sup> defendant-school in which the name of the plaintiff is shown as "Shahid Kaladagi" son of "Rakesh". Therefore, defendant No.4-school has issued certificate in error by showing wrong name of the plaintiff as "Shahid Kaladagi". If the plaintiff's name is "Shahid", normally this name is



refers to the Mohammadian community, but the father's name is shown as "Rakesh". Therefore, Ex.P-4 certificate is found to be a wrong certificate infringing the civil right of the plaintiff. Hence, when correction of name and caste name of the plaintiff is sought, the suit filed by the plaintiff is maintainable under Section 9 of CPC.

62. Further, Exs.P-5 and P-6 are the Aadhar cards of the plaintiff's father and plaintiff. In these records of Aadhar card, the name of the plaintiff is shown as "Aarush Rakesh Kaladagi" and the plaintiff's father name is shown as "Rakesh Kaladagi". Hence, from the evidence on record as discussed above and appreciated, the plaintiff has proved that his correct name is "Aarush kaladagi" and he belongs to the caste and religion of "Hindu Gouli". Hence, the Trial Court is correct in decreeing the suit. Therefore, the judgment and decree passed by the Trial Court is liable to be confirmed and the judgment and decree passed by the First Appellate Court is liable to be set



aside. Accordingly, I answer point No.(i) in the ***Affirmative*** and point Nos.(ii) and (iii) in the ***Negative***.

63. Before parting with the judgment, this Court places on record its deep appreciation for the well-researched and valuable assistance rendered by Research Assistant, namely Smt. Pushpa R., and her valuable research helped the Court to take a correct conclusion. Accordingly, the Court places its appreciation on Research Assistant, namely Smt. Pushpa R., on record.

64. Hence, I proceed to pass the following:

**ORDER**

- i. The Regular Second Appeal is ***allowed***.
- ii. The judgment and decree dated 08.09.2025 passed in R.A.No.35/2022 by the Principal Senior Civil Judge and CJM, Dharwad, is set aside.
- iii. The judgment and decree dated 28.01.2022 passed in O.S.No.610/2019



by the Principal Civil Judge and JMFC,  
Dharwad, is confirmed.

- iv. No order as to costs.
- v. Draw decree accordingly.

**Sd/-**  
**(HANCHATE SANJEEVKUMAR)**  
**JUDGE**

SRA  
List No.: 19 SI No.: 1