

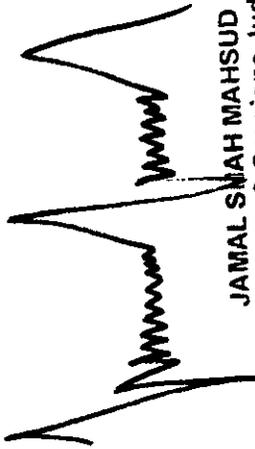
Order: 06
22-07-2020

Present:

Abid Ali Advocate for appellant

Farhat Abbas, representative of NADRA, for respondents

1. The present appellant, Bibi Zuhra w/o Hunar Baz, had filed her suit, against respondents/defendants, before civil court for the purpose of correction of her date of birth. She claims that her original and correct date birth was 01-01-1960, but that in the record of NADRA (respondents) the same was incorrectly entered as 01-01-1964. She averred that the CNIC of her elder son, Nazeer Khan, had been blocked on account of unnatural difference of only 14 years between their ages. She sought correction of her date of birth. Written statement was submitted on behalf of respondents. After framing of issues, evidence of the parties was recorded and on conclusion of hearing the case was dismissed; through the impugned judgement and decree of learned CJ-II, dated 19-02-2020, passed in civil suit no. 78/1 of 2019.
2. Being aggrieved of the impugned order/judgement and decree, the appellant filed the instant appeal. During the pendency of appeal, an application was filed by the counsel for the appellant with request for withdrawal of appeal and permission to file fresh suit. Notice of application was given to respondents and arguments on the same were heard today and record of the case was perused.
3. The counsel for appellant argued that during recording of evidence before trail court it was revealed that the name of


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appellant has been entered in the record of the respondents variously as Bibi Zuhra, Bibi Zarjana and Bibi Zaarjan (Ex. DW-1/2). The counsel stated that the representative of respondents, while recording evidence as DW-1, has also stated that there were no children of appellant, according to the family tree in record of NADRA. The counsel stated in such a situation it has become necessary to make correction of the name of appellant and her family tree, in the record of respondents before the correction for date of birth could be sought. He requested that he may be allowed to withdraw the instant appeal with permission to file fresh suit. He stated that the appellant intends to approach the NADRA office first for correction of her name and the particular in her family tree.


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4. The representative of respondents, as such, could not make any objection to this stance. The function of NADRA is to collect and record the correct and proper data in respect of all citizens of Pakistan, and there could be no objection on correcting the name and other particulars of appellant in NADRA record, subject to following the due process.
5. The points raised by counsel for appellant are sufficient grounds for allowing the plaintiff to institute a fresh suit. The uncertainty in the correct name of appellant, as entered in record of respondents, is a formal defect in suit. In presence of this formal defect proper adjudication could not have been made in the suit.
6. Resultantly, the application for withdrawal of suit is **accepted**, in terms of Order 23, Rule 1 of CPC, with liberty to file a fresh

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suit, as and when required, subject to law of limitation. The impugned judgement and decree are set aside; the same shall not affect the rights of appellant till proper determination of the matter at proper forum.

7. No order as to costs. Let a copy of this judgment in appeal be placed on the file of lower forum and the same be returned to the quarter concerned. Let this file be consigned to record room after its necessary completion and compilation.

Announced
22-07-2020


Jamal Shah Mahsood
Additional District Judge-I,
Orakzai