

**HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

R.A. No. 67 of 2024

Applicant : Zari Gul, through Wali Khan,
Advocate

Respondent No.1 : Provincial Headquarters Sindh,
National Database and
Registration Authority, through
Habib-ur-Rehman, Advocate.

Date of hearing : 13.05.2024.

JUDGMENT

YOUSUF ALI SAYEED, J.- The Applicant has impugned the judgment dated 20.12.2023 passed by the District Judge/Model Civil Appellate Court Badin, dismissing Civil Appeal No.43 of 2023 filed by the Applicant against the Order made by the learned Senior Civil Judge Matli on 02.10.2023 in F.C Suit No.95 of 2023 so as to refuse to exercise jurisdiction in the matter and direct the Plaintiff to avail his remedy before what was termed “the proper forum”.

2. The underlying Suit was filed by the Applicant in an endeavour to establish his status as a citizen of Pakistan and obtain a Computerized National Identity Card (“**CNIC**”), with the prayers advanced accordingly being as follows:-

- “A. To declare that the plaintiff is Pakistani and permanent resident of Rajo Khanai.
- B. To declare that plaintiff is entitle for CNIC.
- C. To direct the defendants to issue CNIC to the plaintiff.
- D. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the plaintiff.”

3. While noting the scope and nature of the Suit, the learned trial Court was pleased to make the order dated 02.10.2023, the operative part of which reads thus:-

“From the perusal of file and record it reveals that the same case is already dismissed by the court under order 7 rule 11 CPC dated 11.02.2022 and it is further disclosed that Honourable Wafaqi Mohtasib (Ombudsman) has also dismissed the matter on the basis of reports of Intelligence Bureau and NADRA.

Hence, in these prevailing circumstances, learned counsel for plaintiff is directed to avail the remedy at proper forum.”

4. As is apparent, another suit had earlier been filed by the Applicant for the same purpose while advancing virtually identical prayers, which culminated in rejection of the plaint, with the Order of 11.02.2022 reading as follows:-

“Heard and perused record carefully. What appears to me that matter in hand already pending before the NADRA even NADRA / defendants Matli issued token No.95 to plaintiff and then his case has been sent to IB by NADRA, which is pending at here. In such circumstances since the matter already pending at the appropriate forum, therefore, I am of the view that at this stage the suit of plaintiff is not maintainable under the law, accordingly plaint in hand stands rejected U/O 7 rule 11 CPC with no order as to costs.

5. Thereafter, aggrieved by the delay in the verification of his status, the Applicant had approached the Wafaqi Mohtasib (Ombudsman) who was pleased to close the complaint on 16.05.2022, while observing that:-

“4.....After thorough examination of the documentary evidence produced by the complainants, the representatives of the I.B and NADRA concluded that earlier documents were fake or pertain to the period after 1979, hence not fulfilling the requirements of Verification and Revocation Policy Version 4.0.4, the complainants did not possess sufficient documentary evidence to establish their plea for Pakistan nationality. As such the complainants were advised to approach Court of competent jurisdiction for redressal of their grievance.

5. Perusal of the cases revealed that the facts of the cases are disputed by the parties and to establish the correct position required a detailed examination of both documentary and oral evidence and its assessment for which the proper forum is a Court of competent jurisdiction and not this Office. The above mentioned four cases are closed in terms of Regulation 23(1)(r) of Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2013.”

6. Be that as it may, the Trial Court declined to proceed with the underlying Suit that was subsequently filed, with the Appellate Court upholding the Order in terms of the impugned Judgment whilst observing that the trial Court had rightly advised the Applicant to approach the proper forum and that his request for renewal of CNIC was declined in writing to avail the remedy as provided under the law.
7. Under the given circumstances, it is apparent from the proceedings before the Mohtasib that no administrative remedy remained to be pursued and that Applicant/Plaintiff ought to have been given a proper opportunity to proceed with and establish his case. Needless to say, in the event of failure on his part to produce proper evidence s to substantiate his claim, the suit would be liable to be dismissed, but that is not to say that the Suit ought not to proceed at all and that such evidentiary exercise ought not to be carried out.
8. That being so, the impugned Judgment and Order of the *fora* below are set aside and the trial Court is directed to proceed with the underlying Suit so as to proceed with the Suit and decide the same on merits in accordance with law.

JUDGE

Shahid