

Order No.12
22.11.2022

Special attorney of plaintiff present. Representative of defendants also present. Arguments on application already heard and record perused.

Through this order, I intend to dispose of application for dismissal of suit filed by representative of petitioners/defendants.

Brief facts of the case are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that correct mother's name of plaintiff is Bibi Mehreen, but defendants have incorrectly entered mother's name of plaintiff as Bibi Halal which is wrong, illegal, ineffective upon the rights of plaintiff and liable to be rectified. That previous suit of plaintiff for correction of father's name of plaintiff was decreed by this court but defendants are reluctant to make the rectification. That defendants were asked time and again to rectify mother's name of plaintiff but in vain hence, the present suit.

Defendants were summoned who contested the suit by submitting written statement coupled with application for dismissal of the suit on the ground that plaintiff omitted to sue in respect of correction of his mother's name in previous suit, therefore, he is




22/11/2022
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

9

prevented to file the suit in hand: Copy of decree sheet and summary judgement dated 26.08.2022 annexed with the petition.

Record shows that plaintiff had filed civil suit No. 65/1 of 2022 for correction of his father's name in the record of petitioners/defendants which was decreed vide summary judgement dated 26.08.2022 in favour of plaintiff against petitioners/defendants as prayed for.

As per Order II, Rule 2, every suit shall include the whole of the claim to which plaintiff is entitled and where plaintiff omits to sue in respect of or intentionally relinquishes any portion of his claim, he shall not afterward sue in respect of the portion so omitted or relinquished. Order II, Rule 2 is devised to prevent a party from splitting up claims and remedies arising out of same cause of action against the same party or its successors. Cause of action in both the suits is the same as plaintiff was issued CNIC by petitioners/defendants on 21.05.2014. Father's name of plaintiff was entered as Syed Lal Jan Hussain and his mother's name as Bibi Halal. Plaintiff was required to sue for rectification of his father as well as mother's name but he omitted to do so.


22/11/2022
ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

10,

Provision of Order II, Rule 2(2), CPC is based on the principle that the defendant should not be vexed twice for the same cause. It is penal in nature and precludes the plaintiff to sue for the portion of the claim or for the remedy so omitted, resultantly, application of petitioners/defendants is allowed and suit of plaintiff is hereby dismissed. No order as to cost.

File be consigned to record room after necessary completion and compilation.

Announced
22.11.2022



Zahir Khan
Civil Judge-I, Kalaya, Orakzai.