

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2174 of 2017(O&M)

Date of Order:23.10.2018

Municipal Council, Jind and another

..Appellants

Versus

Yashika

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bikram Chaudhary, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

Municipal Council, Jind, is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

Plaintiff, a minor, filed a suit through her next friend and natural guardian i.e. father for declaration that her name is Yashika and not Pooja Goyal as recorded in the register of Birth and Death maintained by the Municipal Council.

The suit was contested on the ground that the only clerical/formal error can be corrected and change of name which is not result of any clerical/formal error cannot be permitted.

This court in the case of **Shewta Sharma vs. State of Haryana and others, AIR 2011 (P&H) 86** has already considered this aspect of the matter with reference to the provisions of the Act and the Rules and it has been concluded as under:-

“7. Only ground on which the request of the petition has not been acceded to is that there is no erroneous, fraudulent or improper entry requiring correction. It is

thus contended that the request of the petitioner is beyond the scope of Section 15 of the Act and Rule 11 of the Rules framed thereunder. It is not in dispute that there is an entry in the register relating to birth of a female child in the family of Rajbir and Sunita on 21.12.1990. The name of the girl child is mentioned as Anitika. It is also not disputed that no other female child was born to Rajbir and Sunita. The petitioner claims to be same girl child with a different name Shweta Sharma. Date of birth, names of the parent, place of birth and address are the same as entered in the Births and Deaths Register. Except the birth register, the name of the petitioner is Shweta Sharma in all the relevant records, for example service record of her father, her secondary school certificate, ration card and health card. This documentary proof has neither been disputed nor rebutted in any manner. It is prudent to note that in the ration card issued to the family and also the service record of her father, there are only four family members i.e. Rajbir Sharma, Sunita Sharma, his wife, Shweta Sharma, his daughter and Ankush Sharma, his son. There does not seem to be any reason to doubt the identity of the child whose date of birth is recorded as 21.12.1990 in the Birth register. The only dispute is the different name entered in the Birth Register, the name which the child (petitioner) seems to have adopted

thereafter. It is argued on behalf of the respondents that the entry in the birth register, if alleged to be erroneous, fraudulent or improper can only be corrected under Section 15 of the Act and Rule 11. There is no dispute that the petitioner has not sought correction on the ground that entry is fraudulent or improper. Even it is not the case of petitioner that due to any mistake, her name was mentioned as Anitika. It appears that at the time of birth of the petitioner, her name was mentioned as Anitika in the Birth Register, but subsequently, parent seems to have changed her name as "Shweta Sharma" which is not uncommon. In all subsequent records of the petitioner, she is carrying her name as Shweta Sharma. The petitioner has now asked for correction of her name in the Birth Register which may be required for any reason, like travelling abroad or for some other career promotion etc. where entry of birth is also required along with the matriculation certificate etc. Assuming that initially, the petitioner was named Anitika at the time of her birth and thereafter, he name has been changed as Shweta Sharma which has continued till date. One does not understand any reason to refuse change of name which was entered at the time of birth, if subsequently the name has been changed for any reason and continues to be so till date. There is no prohibition for change of name either under the provisions of the Act

or the rules framed thereunder. To the contrary, Section 14 of the Act provides that where there is registration regarding birth of a child without any name, subsequently, the name of the child can be incorporated within prescribed time. Under Rule 10 where initially, the name of the child is not incorporated in the register, name of the child can be entered within 12 months from the date of registration of birth and under proviso to Rule 10(1), if information is not given within 12 months, it can still be given within a period of 15 years in the manner prescribed in subsequent part of this rule. Thus, the law permits incorporation of name where originally, no name is incorporated. On this analogy, there should not be any prohibition or impediment for incorporation of the subsequent name which might have been adopted by the child after the birth. Change of name in society is not a new phenomena. Section 15 of the Act provides that where it is proved to the satisfaction of the Register that any entry of birth or death in any register is erroneous in form or substance, or has been fraudulently or improperly made, the same can be corrected. Similarly sub-rule (4) of Rule 11 deals with the correction of any entry which is erroneous in substance. Assuming that at the time of birth, it was a conscious entry, but in view of the change of the name of the child thereafter for which there is no prohibition, the entry has

become erroneous in substance to the extent of name of the child. There is abundance of evidence on record produced by the petitioner to substantiate that her known and prevalent name is Shweta Sharma, same having been entered in the service record of her father, ration card, her Secondary School Certificate and health card. There is no reason that correction be not made in the register even if it is assumed that the original name of the child at the time of birth has been changed. The interpretation sought to be placed by the respondents does not in any manner serve the ends of justice, rather defeat the same. As a matter of fact, Section 15 read with Rule 11 permit respondent No.3 to alter the entry not only where the entry is fraudulent or improper but also where it is erroneous in form and substance, if proved to his satisfaction. Section 15 and Rule 11 thus empower respondent No.3 to hold an enquiry if any entry is disputed as erroneous in form and substance or is sought to be corrected, including the entry regarding subsequent change of name. On correct interpretation of Section 15 and Rule 11 and keeping in view the over all Scheme of the Act and the rules, the action of the respondents is liable to be set aside.”

Learned counsel for the appellants could not draw attention of the court to any judgment which may have taken a different view on the interpretation of the Act and the Rules.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the courts below.

The regular second appeal is dismissed.

October 23, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No