

IN THE COURT OF REHMAT ULLAH WAZIR,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No.	105/1 of 2022
Date of Institution:	21.11.2022
Date of Decision:	23.02.2023

1. Mst. Nabib Jana D/O Fareed Khan, W/O Muhammad Rehman
 2. Mr. Muhammad Rehman S/O Khial Mat Shah
- Both R/O Section Mamozai, Tehsil Upper, District Orakzai

(Plaintiffs)

VERSUS

1. The Registrar General, NADRA, Islamabad
 2. The Deputy Register General, Peshawar
 3. The Assistant Registrar, Orakzai
- Through
4. Assistant Director, NADRA, Orakzai

(Defendants)

**SUIT FOR DECLARATION-CUM-PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

1. Plaintiffs Mst. Nabib Jana and one other have brought the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants seeking therein that correct the plaintiff No. 01 is 01.01.1967 and that of the plaintiff No. 02 is 01.01.1966; whereas, defendants have wrongly entered the same as 01.01.1992, in their CNICs. That the parent's names of the plaintiff No. 02 are Khial Mat Shah and Mst. Khan Khela but these have been wrongly entered as Fareed Khan and Mst. Khial Marjan, which are wrong, ineffective upon the rights of the plaintiffs and are liable to

REHMAT ULLAH WAZIR
 Senior Civil Judge
 Orakzai at Baber Mela

correction. That the defendants were asked time and again for correction of dates of birth of the plaintiffs and the names of the parents of the plaintiff No. 02 but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether the plaintiffs have got cause of action?*
2. *Whether plaintiffs are estopped to sue?*
3. *Whether the suit of the plaintiffs is time barred?*
4. *Whether the correct date of birth of the plaintiff No. 01 is "01.01.1967" and correct date of birth of the plaintiff No. 02 is "01.01.1966" while defendants have wrongly mentioned the date of birth of plaintiff No. 01 as 01.01.1992 and plaintiff No. 02 as 01.01.1992 respectively in their record?*
5. *Whether the correct names of the parents of the plaintiff No. 02 are Khial Mat Shah (father) and Khan Khela (mother) while it has been wrongly entered as Farid Khan (father) and Khial Marjan (mother) in the record of defendants?*
6. *Whether plaintiffs are entitled to the decree as prayed for?*
7. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issues No. 03:

The defendants in their written statement raised their objection that suit of the plaintiffs is time barred but I am of the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 21.11.2022. Thus, the same is well within time. The issue is decided in negative.

Issue No. 04 & 05:

Both these issues are interlinked, hence, taken together for discussion.

The plaintiffs alleged in their plaint that correct date

of birth of the plaintiff No. 01 is 01.01.1967 and that of the plaintiff No. 02 is 01.01.1966; whereas, defendants have wrongly entered the same as 01.01.1992, in their CNICs. That the parent's names of the plaintiff No. 02 are Khial Mat Shah and Khan Khela but these have been wrongly entered as Fareed Khan and Khial Marjan, which are wrong, ineffective upon the rights of the plaintiffs and are liable to correction. That the defendants were asked time and again for correction of dates of birth of the plaintiffs and the names of the parents of the plaintiff No. 02 but they refused to do so, hence, the present suit;

Plaintiffs in support of their contention produced witnesses, in whom the plaintiff No. 01 herself appeared as PW-01, who stated that she has a daughter namely Rufaida, aged about 35 years and her marriage took place about 40 years ago. Further, narrated the same story as in the plaint and exhibited her CNIC as Ex.PW-1/1. Further, the plaintiff No. 02 himself appeared as PW-02, who also narrated the same story as in the plaint and produced his own CNIC and CNIC of his sister, namely Arbab Jana which is exhibit Ex.PW-2/1 and Ex.PW-2/2 respectively. These witnesses have been cross-examined but nothing tangible has been extracted out of them

during cross-examination.

The defendants produced only one witness as the record keeper of NADRA, Orakzai who appeared as DW-01 who produced the Family Trees and CNIC Processing Forms of the plaintiffs, which are Ex.DW-1/1 to Ex.DW-1/4 respectively and according to these, the dates of birth and parent's names of the plaintiffs are same and no child is mentioned with the plaintiffs in the record of the defendants. But admitted in his cross examination that father-in-law and mother-in-law cannot be the real parents of anyone and according to Ex.DW-1/2, the dates of birth and parent's names of the plaintiffs are same. Further, stated that it will have no effect on the Family Trees of the plaintiffs if their dates of birth and parent's names of the plaintiff No. 02 be corrected. Further, admitted that the difference between the ages of parents and children must be 16/17 years.

Arguments heard and record perused.

After hearing of arguments and perusal of record, I am of the opinion that the plaintiff mainly rely on age of their elder daughter and CNIC of Mst. Arbab Jana (sister of plaintiff No. 02), which are earlier in time and bear the presumption of truth unless rebutted. Also, the plaintiffs are increasing their ages

REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela

34

and not decreasing, which would not adversely affect the rights of any third person. Thus, the plaintiff established their claim through cogent and reliable evidence; therefore, both these issues are decided in positive.

Issue No. 01 & 06:

Both these issues are interlinked, hence, taken together for discussion.


As sequel to my findings on issue No. 03 & 04, the plaintiffs have got a cause of action and therefore, entitled to the decree as prayed for. Both these issues are decided in negative.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for with costs.

File be consigned to the Record Room after its completion and compilation.

Announced
23.02.2023


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)