

25

IN THE COURT OF SHABEER AHMAD,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 03/1 of 2023
Date of Original Institution: 06.03.2023
Date of Decision: 24.03.2023

Khial Peza Wife of Ziarat Gul, resident of Qaum Mishti,
Tapa Haider Khel, Tehsil Central, District: Orakzai.


.....(Plaintiff)
VERSUS

1. **Chairman, NADRA, Orakzai.**
2. **Assistant Director, NADRA District Orakzai.**

.....(Defendants)

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

JUDGMENT


SYED ABBAS
CIVIL JUDGE-II
Tehsil Courts Kalaya

1. Brief facts of the case in hand are that the plaintiff has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct father name of plaintiff is **Khaibat Shah (خیت شاہ)**, while defendants have wrongly entered the same as Khai Bat Shah (خی بات شاہ) in their record, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendants were summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got a cause of action? OPP
2. Whether the correct father name of the plaintiff is **Khaibat Shah** while it has been wrongly entered the same as Khai Bat Shah in her CNIC by defendants? OPP
3. Whether the plaintiff is entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

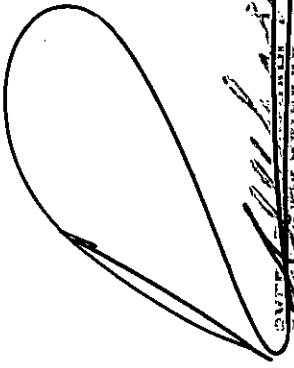
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 CIVIL JUDGE (SUKHASAR) 3
 Tehsil Courts Kalaya

Issue No. 02:

The plaintiff alleged in her plaint that correct father name of plaintiff is **Khaibat Shah**, while defendants have wrongly entered the same as Khai Bat Shah in their record which is wrong, ineffective upon the rights of plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Muhammad Tariq, the attorney and Son of plaintiff, appeared as PW-01. He stated that plaintiff is his mother and correct father name of plaintiff is **Khaibat Shah**. The one Khaibat Shah is his grand-father while it has been wrongly entered as Khai Bat Shah in defendants record which is wrong. He further stated that his grand-father

was died on 06.05.1995 and his death certificate as Ex-PW-1/1. He produced copy of his grand-mother CNIC, special power of attorney, copy of his CNIC and copy of his mother CNIC which are Ex-PW-1/2 to Ex-PW-1/5 respectively. He lastly requested for decree of the suit as prayed for. During cross examination he stated that plaintiff is my mother. He further stated that Ex-PW-1/1 is true wherein father name of the plaintiff is correctly mentioned.


Civil Judge (M-1)
Tehsil Court, Suwaya
2023


Mr. Farman Ullah S/O Habib Gul, relative of plaintiff is deposed as PW-02. He supported the stance of the plaintiff as narrated in the plaint. Copy of his CNIC is Ex. PW-2/1. During cross examination nothing tangible has been extracted out of him. Thereafter, plaintiff closed her evidence.

In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants who appeared as DW-01. He produced Family Tree of plaintiff which is Ex. DW-1/1 and according to that father name of plaintiff is Khai Bat Shah and mother name of plaintiff is Akhtar Bibi. Plaintiff renewed her CNIC on 24.11.2022 and does not claim change of her father name. Representative of NADRA in his examination in chief stated that according to SOP of NADRA parentage can

be changed/corrected in NADRA record by obtaining finger prints of anyone of the parents themselves or their children, through biometric. During cross examination he admitted that Ex-PW-1/1 (death certificate) is true and made from Union Council wherein correct father name of plaintiff is mentioned as **Khaibat Shah.**

Arguments heard and record perused.

After hearing of arguments and perusal of the record I am of the opinion that the plaintiff has produced documentary, oral and reliable witnesses, which fully supported the claim of the plaintiff. Thus, the plaintiff established her claim through cogent and reliable evidence, therefore, the issue is decided in positive.


Civil Judge/Judge
District Court, Rawalpindi

Issue No. 01 & 03:

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

As sequel to my findings on issue No. 02 the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

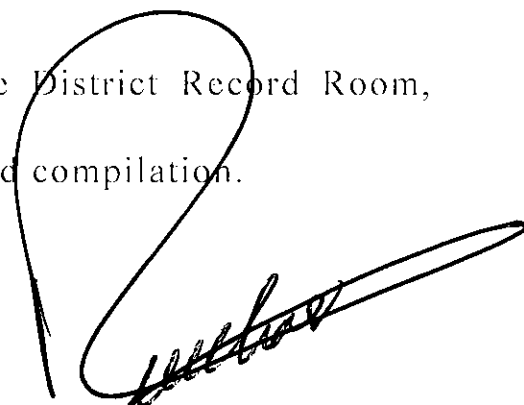
As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

29

Defendants are directed to correct the father name of plaintiff is **Khaibat Shah** in their record. This decree shall not effect to rights of other person or service record if any.

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

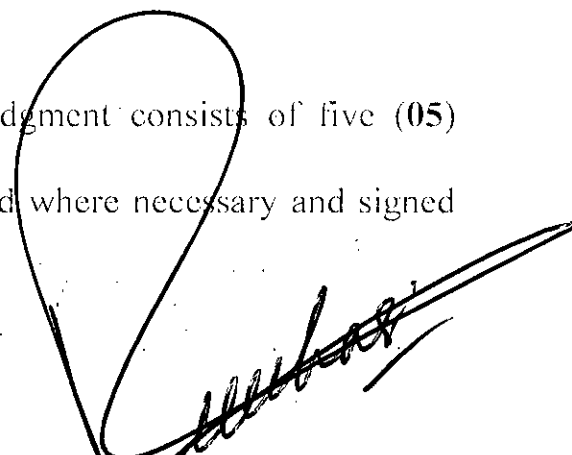
Announced
24.03.2023



Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai

CERTIFICATE

Certified that this judgment consists of five (05) pages, each has been checked, corrected where necessary and signed by me.



Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai