

(23)

In the name of almighty Allah who has got unlimited jurisdiction over and beyond the universe.

BEFORE THE COURT OF
ADDITIONAL DISTRICT JUDGE, ORAKZAI AT BABER MELA

Civil Appeal No. CA-07/13 of 2023

Date of institution: 16.02.2023

Date of decision: 24.03.2023

1. Chairman NADRA Islamabad, Pakistan
2. Director General NADRA KP, Peshawar
3. Assistant Director NADRA, Orakzai

..... **(Appellants/defendants)**

...Versus...

Fazal Kareem son of Fazal Raheem resident of Qaum Baland Khel Tappa
Ludhyani, Tehsil Upper, District Orakzai

..... **(Respondent/Plaintiff)**

**Appeal against Judgement, Decree and Order dated 20-01-2023, passed in
Civil Suit No. 24/1 of 2022**

JUDGMENT

Instant Civil Appeal has been preferred by the appellants/defendants against the Judgment, Decree & Order dated 20.01.2023, passed by learned Senior Civil Judge, Orakzai in Civil Suit bearing No.24/1 of 2022; whereby, the suit was decreed.

2. Plaintiff is naming Fazal Kareem son of Fazal Raheem is residing in District Orakzai as local resident with nationality as Pakistani. His actual and real father's name is Fazal Raheem. He was earlier issued computerized national identity card bearing No. 14101-7481717-9 with the incorrect father name as Kharsoon and incorrect address as Muhalla Haji Muhabbat Khan, Tall, Tehsil and District Hangu. The plaintiff prayed for correction of CNIC to the appellants/defendants (NADRA), which was turndown and resultantly Civil Suit was instituted for declaration, cancelation and mandatory injunction.

SAYED CAZAL WADOOD
Am. District & Sessions Judge
Orakzai at Hangu

3. Defendants (NADRA) on appearance objected the suit on different grounds of law and facts. It was specifically pleaded that they are maintaining record provided by the applicant and no deletion or addition has been made therein.


4. The divergent pleadings of the parties have been reduced into the following issues.

- i): Whether plaintiff has got cause of action?
- ii): Whether correct name of the father of the plaintiff is Fazal Rahim while it has been wrongly entered as Kharsoon in the record of the defendant?
- iii): Whether the correct address of the plaintiff is "Qaum Baland Khel, Tappa Ludhyani, Tehsil upper, District Orakzai" while it has been wrongly entered as "Muhalla Haji Muhabbat Khan, Thall, District Orakzai"?
- iv): Whether plaintiff is entitled to the decree as prayed for?
- v): Relief.

5. The parties have been provided opportunity of evidence. On conclusion of trial, the suit was decreed by the then learned Trial Judge vide Judgement and Decree dated 20-01-2023. Feeling aggrieved, the appellants/defendants have presented instant civil appeal, which is under consideration.

6. Mr. Irfan Legal Assistant NADRA for appellants is of the stance that the plaintiff has exiled from the existing family tree and joined another family tree; that too, without the consent of either joining family or exiling family. The plaintiff was supposed to either produce members of both such families in evidence or arrayed them as party in the suit for their interest being at stake. This aspect of the case has been ignored while working out judgement by learned the Trial Court and that is why appeal has been preferred.

7. Learned counsel representing the respondent argued that plaintiff has applied for correction of father's name and address in his CNIC. The Trial Court


SAYED FAZAL WADDOO
 Addl. District & Sessions Judge
 Orakzai at Hangu

28

has granted decree on conclusion of trial while keeping in view the evidence of parties and thus appeal is groundless.

8. During proceedings of the appeal, parties have been agreed on producing additional evidence. The member of the family from which the respondent exiled as well as the member of the family to which respondent joined have been examined as APW-1 and APW-2. Amina Bibi as APW-1 stated that respondent Fazal Kareem is her real brother. She has no objection if plaintiff want to join her family. The father name in the CNIC of the respondent is wrongly entered as Kharsoon while correct father's name of the respondent is Fazal Raheem. She exhibited her CNIC as Ex.PA. Same APW was cross examined by the legal representative of the appellants; wherein, she confirmed that plaintiff is part of their family and his entry in their family tree is natural in real. Lal Khan is examined as APW-2; wherein, he stated that the father's name entered in the CNIC of the respondent as Kharsoon is wrong. Kharsoon is his uncle who has no offspring. He further stated that he do not want to raise any objection if respondent exiles from his family tree. He exhibited his CNIC as Ex.PB. He was cross examined; wherein, he confirmed the fact that he has no blood relation with respondent and respondent is resident of District Orakzai.

9. The grant of decree to the plaintiff being illegal on the score of deficient evidence is point of determination in instant appeal.

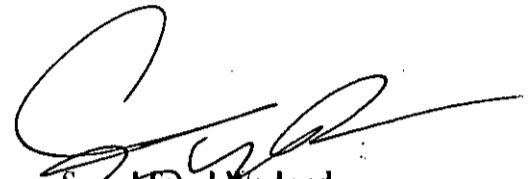
10. Parties have agreed on additional evidence at appellate stage and consequently two persons examined in the Court had confirmed the fact of expelling and joining of the plaintiff from one family tree to the another family tree is real and actual. APW-1 is the person representing the one family and APW-2 is representing the other families and both of them have no objection on such correction. Therefore, the ground of appeal pertaining to involvement of interest of other families stands nowhere.

SAVED FAZAL WADODI
District & Sessions Judge
Orakzai at Hangu

26

11. For what has been discussed above, it can safely be concluded that the learned Trial Court has properly appreciated the evidence and rightly passed the impugned Judgement and Decree dated 20.01.2023. Consequently, as the Judgement under appeal does not warrant interference; therefore, the appeal in hand stands dismissed. Costs shall follow the events. Requisitioned record be returned back with copy of this Judgement; whereas, file of this Court be consigned to District Record Room, Orakzai as prescribed within span allowed for.


Announced in the open Court
24.03.2023



Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela

CERTIFICATE.

Certified that this Judgment is consisting upon four (04) pages; each of which has been signed by the undersigned after making necessary corrections therein and read over.



Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela