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IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No. 11/1 of 2023
Date of Institution: 26/01/2023
Date of Decision: 31/03/2023

Amir Khan S/O Kameen Shah
R/O Qoam Mamozai, Tappa Meer Kalam Khel, Tehsil Upper, District Orakzai.
.....(Plaintiff)

VERSUS

1. Chairman Nadra, Islamabad
2. D.G Nadra, Peshawar
3. Assistant Director Nadra, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff **Amir Khan** has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that his correct father's name is **Kameen Shah** but the defendants have wrongly incorporated his father's name as Wazir Badshah furthermore, the correct mother's name of the plaintiff's is **Syed Bibi** but defendants have also wrongly incorporated his mother's name as Bas Marjan in their record which is wrong and ineffective upon his rights and are liable to correction. The defendants were asked time and again for correction of father's and mother's names of plaintiff but they refused to do so, hence the present suit;
2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by

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filing their written statement, wherein various legal and factual objections were raised.

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

Issues:

1. Whether plaintiff has got cause of action?
 2. Whether the plaintiff is estopped to sue?
 3. Whether suit of the plaintiff within time?
 4. Whether the correct father name of the plaintiff is Kameen Shah?
 5. Whether the correct mother name of plaintiff is Syed Bibi?
 6. Whether the plaintiff is entitled to the decree as prayed for.
 7. Relief.
4. Parties were given ample opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiff is estopped to sue?

5. The contesting 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.

Issue No. 03:

Whether suit of the plaintiff within time?

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6. The contesting defendants in their written statement raised the 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 **26.01.2023**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04 and 05:

Whether the correct father name of the plaintiff is Kameen Shah? Whether the correct mother name of plaintiff is Syed Bibi?

7. The plaintiffs alleged in his plaint that correct father and mother name of the plaintiff is **Kameen Shah** and **Syed Bibi** while the defendants have wrongly entered same is as Wazir Badshah and Bas Marjan, which is wrong, ineffective upon the rights of the plaintiff and liable to correction.
8. The plaintiffs produced three witnesses and appeared himself in his favour, who recorded their statement and testified that the correct father's and mother's names of plaintiff **Kameen Shah** and **Syed Bibi**.
9. The plaintiff himself appeared as PW-1 recorded his statement that my correct father's and mother's name is **Kameen Shah** and **Syed Bibi**. He stated that the defendants

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have wrongly mentioned the same as Wazir Badshah and Bas Marjan. I have no relation with Wazir Badshah and Bas Marjan, they are husband wife and I have been put wrongly in their family tree. His CNIC is Ex.PW 1/1.

10. PW-02 namely Daud Shah recorded in his statement that plaintiff is his brother and he testified the claim and contention of the plaintiff. He also stated that his father is handicapped and therefore, can't come to court for evidence. His CNIC is Ex.PW-2/1.
11. PW-03 namely Wazir Badshah recorded in his statement that correct father's and mother's name of plaintiff are **Kameen Shah** and **Syed Bibi**. Where defendants wrongly entered his name as father of plaintiff in their record. He further stated he has no relation with the plaintiff.
12. PW-04 namely Abdul Ghafar recorded in his statement that he personally knows the plaintiff who is the son of **Kameen Shah**. While defendants have wrongly mentioned father name of the plaintiff as Wazir Badshah, which is liable to correction. His CNIC is Ex.PW 4/1.
13. In order to counter the claim of the plaintiff, the contesting defendants produced only one witness, Mr. Irfan Ali, the representative of the contesting defendants appeared as DW-1. He produced family tree which is Ex. DW-1/1. According to this document, plaintiff's father and mother name as Wazir Badshah and Bas Marjan. He further stated that plaintiff made his CNIC in 2009 and he utilized this CNIC till 2023. DW-01 in his cross examination admitted

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that the in the record of PW-02 i.e. Daud Shah who is brother of the plaintiff, the parents name of the same is correct as the plaintiff has prayed for in the instant suit. He further admitted that according to the statement of PW-03 the correct father name and mother name of the plaintiff are **Kameen Shah** and **Syed Bibi**. It is correct that according to the SOP of Nadra the correction of the names of the parents are possible.

14. Arguments heard and record perused.
15. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the evidence which he produced. That the correct fathers and mothers of the plaintiff is **Kameen Shah** and **Syed Bibi**.
16. Thus, in the light of the aforesaid findings, the issues are decided in positive.

Issue No. 01 & 06:

Whether plaintiff has got cause of action?

Whether the plaintiff is entitled to the decree as prayed for.

17. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4 and 5 the plaintiff has got cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

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RELIEF:

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

directed to correct the father's and mother's name of the plaintiff as **Kameen Shah** and **Syed Bibi** in their record.

19. Parties are left to bear their own cost.
20. Decree sheet be drawn up accordingly.
21. File be consigned to the Record Room after its necessary completion and compilation.

Announced
31.03.2023

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CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.

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