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IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Babar Mela

Civil Suit No. 1/1 of 2023
Date of Institution: 04/01/2023
Date of Decision: 31/03/2023

1. **Naseer Khan S/o Khawand Shah**
 2. **Muhammad Riaz S/o Khawand Shah**
 3. **Shah Khela W/o Khawand Shah**
R/O Khadizai, Post Office Ghiljo Upper Orakzai.
-(Plaintiffs)

VERSUS

1. **Chairman Nadra, Islamabad**
 2. **D.G Nadra, Peshawar**
 3. **Assistant Director Nadra, District Orakzai.**
- (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiffs have brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that the correct father's name of plaintiff No.1 & 2 are **Khawand Shah** but the defendants have wrongly incorporated their father's name as Sakhi Marjan in their CNICs. Furthermore, the correct Husband name of the plaintiff No.3 is **Khawand Shah** but defendants have wrongly incorporated the same as Sakhi Marjan in his 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 name of plaintiff No. 1 & 2 and husband name of plaintiff No.3 but they refused to do so, hence the present suit;

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Naseer Khan and others Vs Nadra.

Case No. 1/1

2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by 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 plaintiffs have got cause of action?
2. Whether the plaintiffs are estopped to sue?
3. Whether suit of the plaintiffs within time?
4. Whether the correct father name of the plaintiff No.1 & 2 is Khawand Shah and Sakhi Marjan mentioned in their CNICs is their maternal uncle?
5. Whether the correct name of husband of plaintiff No.3 is Khawand Shah and Sakhi Marjan mentioned in her CNIC is her brother?
6. Whether the plaintiffs are 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 plaintiffs are estopped to sue?

5. The contesting defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later

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on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

Whether suit of the plaintiffs within time?

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 **04.01.2023**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04 and 05:

4. Whether the correct father name of the plaintiff No.1 & 2 is **Khawand Shah and Sakhi Marjan** mentioned in their CNICs is their maternal uncle?
5. Whether the correct name of husband of plaintiff No.3 is **Khawand Shah and Sakhi Marjan** mentioned in her CNIC is her brother?

7. The plaintiffs alleged in his plaint that correct father name of the plaintiff No.1 & 2 are **Khawand Shah** and correct husband name of plaintiff No.3 is **Khawand Shah** while the defendants have wrongly entered same is as Sakhi Marjan,

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which is wrong, ineffective upon the rights of the plaintiffs and liable to correction.

8. The plaintiffs produced two witnesses and himself appeared as PW-1 in his favour who recorded their statement and testified that the correct father name of plaintiff No.1 & 2 is **Khawand Shah** and correct husband name of plaintiff No.3 is **Khawand Shah**.

9. The plaintiff No.1 himself appeared as PW-1 recorded his statement that his correct father's name is **Khawand Shah** while Sakhi Marjan is his maternal uncle, while defendants have wrongly mentioned Sakhi Marjan is his father in their record. He further stated that his mother's name is Shah Khela and she is the sister of Sakhi Marjan. His CNIC is Ex.PW 1/1.

10. PW-02 namely Sakhi Marjan recorded in his statement that plaintiff No.1 & 2 are his nephew and mother of plaintiff No.1 & 2 is his sister. While defendants have wrongly entered his name as a father of Plaintiff No.1&2 and husband of plaintiff No.3 in their record. His CNIC and CNIC of his wife are Ex.PW-2/1 & Ex.PW-2/2.

11. PW-03 namely Akhter Gul recorded in his statement that correct father's name of plaintiff No.1&2 is **Khawand Shah** and Sakhi Marjan is maternal uncle of plaintiff No.1&2. He further stated that the mother name of plaintiff No.1 & 2 is **Shah Khela**. His CNIC is Ex.PW 3/1.

12. In order to counter the claim of the plaintiff, the contesting defendants produced only one witness as Mr. Irfan Ali, the

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representative of the contesting defendants appeared as DW-1, and he produced three family tree which is Ex.DW-1/1 to 1/3 and processing form which is Ex. DW-1/4. According to this document father and mother name of plaintiff No.1 is Sakhi Marjan and Shah Khela. He further stated that the family trees of plaintiff No.1&2 consisting one other member namely Razmena Bibi i.e sister of plaintiff No.1&2. DW-01 in his cross examination admitted that according to the statement of PW-2 that Saida is the wife of Sakhi Marjan. He further admitted that the according to the statement of PW-02 it is correct that plaintiff No.3 is the sister of PW-02 and plaintiff No.1&2 are nephew of PW-02.

13. Arguments heard and record perused.
14. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiffs is supported by the evidence he produced. That the correct father name of plaintiff No.1&2 is **Khawand Shah** and correct husband name of plaintiff No.3 is **Khawand Shah**
15. Thus, in the light of the aforesaid findings, the issues are decided in positive.

Issue No. 01 &06:

Whether plaintiffs have got cause of action?

Whether the plaintiffs are entitled to the decree as prayed for.

16. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4 and 5 the plaintiffs have got cause of action and therefore entitled to

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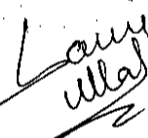
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the decree as prayed for. Both these issues are decided in positive.

RELIEF:


17. As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for, defendants are directed to correct the father's name of plaintiff No.1&2 as **Khawand Shah** and husband name of the plaintiff No.3 as **Khawand Shah** in their record.
18. Parties are left to bear their own cost.
19. Decree sheet be drawn up accordingly.
20. 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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