

IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

(4)

Civil Suit No. 33/1 of 2019
Date of Institution: 11/04/2019
Date of Decision: 19/09/2019

Ghuncha Gul s/o Tila Dad

Resident of Village Mishti, PO Mishti Mela, Tehsil Central & District Orakzai.....
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Registrar, General NADRA Islamabad.**
3. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

Plaintiff, **Ghuncha Gul s/o Tila Dad**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that correct name of his father is "**Tila Dad**" while it has been wrongly mentioned as **Musafir Khan** by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Habib Ullah Khan and submitted written statement, which is placed on file.

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

Issues:

1. Whether plaintiff has got cause of action.
2. Whether suit of plaintiff is within time.


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3. Whether the correct name of the father of the plaintiff is Tila Dad while it has been wrongly entered in his CNIC as Musafir Khan.
 4. Plaintiff is entitled to the decree as prayed for.
 5. Relief.
6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced four (04) witnesses including himself.
7. PW-1 is Tila Dad, father of the plaintiff, who recorded his statement. He stated that his correct name is Tila Dad, which is mentioned in his CNIC. He produced his CNIC and exhibited the same as Ex. PW-1/1. He stated that inadvertently, name of his uncle i.e Musafir Khan has been mentioned in the CNIC of the plaintiff in the column of parentage. He produced the CNIC of Musafir Khan and exhibited the same as Ex. PW-1/2. He was cross examined by the defendants.
8. PW-2, Musafir Khan, uncle of the plaintiff. He stated that plaintiff is his nephew and Tila Dad is the real father of the plaintiff. He is cross examined by the defendants through attorney.
9. PW-3, is Moiz Gul, cousin of the plaintiff, who stated that the real name of the father of the plaintiff is Tila Dad. He is cross examined by the defendants through attorney.
10. PW-4, is Ghucha Gul, plaintiff himself. He stated that the correct name of the father of the plaintiff is Tial Dad while it has been wrongly mentioned in his CNIC as Musafir Khan. He


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produced and exhibited his CNIC as Ex. PW-4/1. He prayed for grant of decree. He is cross examined by the defendants through attorney. (6)

11. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the form-A of plaintiff and exhibited the same as Ex. DW-1/1. He is cross examined by the plaintiff.
12. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
13. My issues wise findings are as under:
14. **Issue No.01 & 04:**

These issues taken together. Plaintiff has filed the instant suit for declaration in respect of his correct father's name.

Perusal of record reveals that correct name of the father of the plaintiff is Tila Dad. The real father of the plaintiff namely Tial Dad appeared and recorded his statement as PW-1 and exhibited his CNIC as Ex. PW-1/1. Interestingly, Musafir Khan, the real uncle appeared and recorded his statement as PW-2 and stated that the real father of the plaintiff is Tila Dad while defendants have wrongly mentioned his name in the column of parentage of the plaintiff. The real father of the plaintiff is in good position to tell his real name. Moreover, PW-1 is the best available evidence upon whom this court can easily rely. The


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said factum has not been shattered by the defendants in evidence. The same are not rebutted by any documents by the defendants, hence, the said documents are admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. Taking wisdom from the case law reported in PLD 2003 Supreme Court page 849, *“wherein it has been mentioned by the honorable Supreme Court of Pakistan that the best evidence to prove this fact (age or date of birth) was of those people who would have an ordinary course of life having personal knowledge. Statement of mother is at high pedestal as compared to other as she has given birth to him.”*

In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issues in hand are decided in affirmative.

Issue No. 02:

The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.


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Senior Civil Judge
Oralwal at Mirpur

Issue No. 05:

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.


The issue is decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC to the plaintiff with his correct name of his father as **Tila Dad**. Parties are left to bear their own costs.


15. File be consigned to the record room after its completion.

Announced
19/09/2019


(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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


(MUHAMMAD AYAZ KHAN)
Senior Civil Judge,
Orakzai (at Baber Mela).