

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

Civil Suit No. 31/1 of 2019
Date of Institution: 11/04/2019
Date of Decision: 03/10/2019

Ikram s/o Noor Akbar

Resident of Village Sobi pkha, PO Ghiljo, Tehsil Upper & 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, **Ikram s/o Noor Akbar**, 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 **“Noor Akbar”** and correct address is **“Qaum Mamo Zai, Tappa Aado Khel San Sobi Pkha sama Mamo Zai”**, while it has been wrongly mentioned as **“Meeram Khan”** and address as **“Qaum Mamo Zai Bai Ghasi village Mamo Zai, PO Ghiljo”** by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.


MUHAMMAD AYAZ KHAN
Senior Civil Judge
Orakzai

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.
3. Whether the correct name of the father of the plaintiff is Noor Akbar while it has been wrongly entered in his CNIC as Miram Khan.
4. Whether the correct address of the plaintiff is "قوم ماموزئی تپہ ادو خیل سن سو بی پختہ، سماء" قوم ماموزئی تپہ بائی نو اسی ماموزئی کلی ڈاکخانہ" while wrongly entered in the CNIC is "قوم ماموزئی تپہ بائی نو اسی ماموزئی کلی ڈاکخانہ" غلجہ تحصیل اپر ضلع اورکزئی"
5. Plaintiff is entitled to the decree as prayed for.
6. Relief.
7. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced two (02) witnesses including himself.
8. PW-1 is Ikram, plaintiff himself, who recorded his statement. He stated that correct name of his father is Noor Akbar, which is mentioned in his CNIC. He produced the CNIC of his father and exhibited the same as Ex. PW-1/1. He produced his own CNIC and exhibited the same as Ex. PW-1/2, death certificate as Ex. PW-1/3, CNIC of mother as Ex. PW-1/4. He was cross examined by the defendants.
9. PW-2, Mir Akbar, uncle of the plaintiff. He stated that the father of the plaintiff correct name is Noor Akbar. He added that the father of the plaintiff was his real brother. He exhibited his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.


 MUHAMMAD AYAAZ
 Senior Judge
 Orakzai at Hamir

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10. 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.
11. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
12. My issues wise findings are as under:
13. **Issue No.01,03 & 04:**

These issues taken together. Plaintiff has filed the instant suit for declaration in respect of his correct father's name and correct address is, referred hereinabove.


MOHAMMAD FARAZ
Senior Civil Judge,
Qazal at Hangu

Perusal of record reveals that correct name of the father of the plaintiff is Noor Akbar and correct address of the plaintiff is "Qaum Mamo Zai, Tappa Aado Khel San Sobi Pkha sama Mamo Zai". The real brother of the father of the plaintiff appeared as PW-2, who verified the factum that correct father name of the plaintiff is Noor Akbar. The said brother is in good position to tell the real name of his brother (father of the plaintiff). Moreover, PW-2 is the best available evidence upon whom this court can easily rely. The 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.

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.



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Orakzai at Mang

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 **Noor Akbar** and correct the address as “**Qaum Mamo Zai, Tappa Aado Khel San Sobi Pkha sama Mamo Zai**” Parties are left to bear their own costs.

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

Announced

03/10/2019



(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).