

(4)

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

Civil Suit No. 51/1 of 2019
Date of Institution: 15/04/2019
Date of Decision: 07/10/2019

Noor Zahra w/o Syed Haree Hussain

Resident of Village Andkhel, PO Tazi Khel, Tehsil Lower & 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:

MUHAMMAD AYAZ KHAN
Senior Civil Judge,
Orakzai at Hangu.

Plaintiff, **Noor Zahra w/o Syed Hareer Hussain**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that correct name of her husband name is "**Syed Hareer Hussain**" while it has been wrongly mentioned as **Syed Noor Ali Shah** 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.

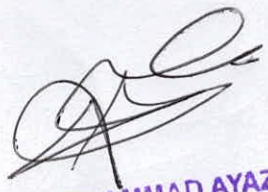
Divergent pleadings of the parties were reduced into the following issues;

Issues:

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

3. Whether the correct name of the husband of the plaintiff is Syed Hareer Hussain while it has been wrongly entered in his CNIC as Syed Noor Ali Shaha.
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 three (03) witnesses.
7. PW-1 is Syed Abdullah Shah, attorney of the plaintiff, who recorded his statement. He stated that the correct name of the husband of the plaintiff is Syed Hareer Hussain, which has been wrongly mentioned in her CNIC as Syed Noor Ali Shah, who happens to be father-in-law of the plaintiff. He produced and exhibited the CNIC of the plaintiff as Ex. PW-1/1, the CNIC of husband of the plaintiff as Ex. PW-1/2, and CNIC of the Noor Ali Shah as Ex. PW-1/3, the CNIC of the wife of Noor Ali Shah as Ex. PW-1/4, his CNIC as Ex. PW-1/5, power of attorney as Ex. PW-1/6, and Nikah Nama of the plaintiff as Ex. PW-1/7. He was cross examined by the defendants.
8. PW-2, Syed Amin Hussain, relative of the plaintiff, appeared and recorded his statement, wherein he stated that the correct name of the husband of the plaintiff is Syed Hareer Hussain. He produced and exhibited his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.
9. PW-3, is Syed Musarrat Hussain, relative of the plaintiff, who stated that the real name of the husband of the plaintiff is Syed


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District Court, Hannu

Hareer Hussain. He is cross examined by the defendants through attorney.

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. 03:**

Plaintiff has filed the instant suit for declaration in respect of his correct husband's name.


Perusal of record and evidence present on file reveals that correct name of the husband of the plaintiff is Syed Hareer Hussain, which has been wrongly mentioned in her CNIC as Syed Noor Ali Shah. Evidence further reveals that Syed Noor Ali Shah is the father-in-law of the plaintiff, which is also evident from the CNIC already exhibited as Ex. PW-1/4. Nikah Nama is present on file, already exhibited as Ex. PW-1/7, wherein the correct name of the husband of the plaintiff is mentioned as Syed Hareer Hussain. This is a mistake which needs to be correct. At present, it is unnatural that the name of father-in-law of the plaintiff has been mentioned in the column of husband of the plaintiff. This mistake will create the issue of


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legitimacy of the children of the plaintiff in future, if it is not correct.

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

Issue No. 02:


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Wazirpur, Bahawalpur

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. 01 & 04:

Both issues are taken together. 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.

These issues are 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 her husband as **Syed Hareer Hussain**. Parties are left to bear their own costs.

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

Announced

07/10/2019



(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).