

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

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Civil Suit No. 228/1 of 2019
Date of Institution: 09/12/2019
Date of Decision: 30/01/2020

Islam Bibi w/o Muhammad Ghani

Resident of Village Oat Mela, 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, **Islam Bibi w/o Muhammad Ghani**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that correct name of her father is "**Niaz Badshah**" and correct mother name is "**Hassan Bibi**" while it has been wrongly mentioned as "**Gulab Jan**" and "**Bibi Hawa**" by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.


Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas 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 **Niaz Badshah** and correct mother name is **Hassan Bibi** while it has been wrongly entered in her CNIC as **Gulab Jan** and **Bibi Hawa**.
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, Abdullah, is brother/attorney of the plaintiff, who recorded his statement. He stated that the correct name of the father of the plaintiff is **Niaz Badshah** and correct mother name is **Hassan Bibi** and the father name **Gulab Jan** and mother name as **Bibi Hawa** entered in the CNIC of the plaintiff is incorrect. He produced and exhibited copy of his CNIC as Ex. PW-1/1, copy of CNIC of the plaintiff as Ex. PW-1/2 copy of the CNIC of the mother of the plaintiff as Ex.PW-1/3, copy of his father CNIC as Ex.PW-1/4, and copies of CNICs of his brothers as Ex.PW-1/5 and Ex.PW-1/6 and copies of CNICs of his sisters as Ex.PW-1/7 and Ex.PW-1/8. He requested for decree as prayed for. He was cross examined by the defendants.
8. PW-2, Akbar Khan, is brother of the plaintiff. He stated that the correct name of the father of the plaintiff is **Niaz Badshah** and correct mother name is **Hassan Bibi** and the father name **Gulab Jan** and mother name as **Bibi Hawa** entered in the CNIC of the plaintiff is incorrect. He produced and exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.


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9. PW-3, Syed Rehman, is another brother of the plaintiff, who supported the contention of the plaintiff. He exhibited his CNIC as Ex. PW-3/1. 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 manual ID Card form of plaintiff and exhibited the same as Ex. DW-1/1 and manual card No. as Ex. DW-1/2. He is cross examined by the plaintiff.

11. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

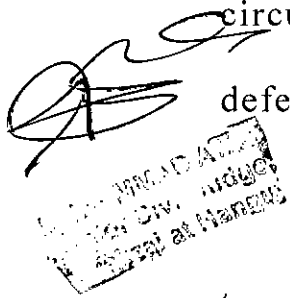
12. My issues wise findings are as under:

13. **Issue No.03:**

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

Perusal of record reveals that plaintiff claims that her correct father name is **Niaz Badsha** and correct mother name is Hassan Bibi, while it has been wrongly mentioned in the CNIC of the plaintiff as **Gulab Jan** and **Bibi Hawa**, which is against the facts. She relied upon the CNIC of her mother which is exhibited as Ex.PW-1/3 and her siblings CNICs, which are exhibited as Ex.PW-1/5 to Ex.PW-1/8 respectively. As per the said CNICs, the correct name of the father of the plaintiff is "**Niaz Badshah**" and correct mother name is **Hassan Bibi**. All

the 03 brothers of the plaintiff appeared as witnesses, who verified the factum that the plaintiff is their sister and the correct father name of the plaintiff is Niaz Badshah and correct mother name is Hassan Bibi. If the siblings of the plaintiff verify a factum that cannot be shattered by the sole witness of the defendants, who is stranger to the said fact. 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 evidence is admissible, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants.



Handwritten signature and a rectangular stamp from the National Database and Registration Authority (NADRA) Islamabad, Pakistan.

Even otherwise, it is the fundamental right of the plaintiff to correct her parent's name in the CNIC, which cannot be denied to her. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the parent's names of the plaintiff are not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the name is corrected it would not affect the right of any third person. Hence, claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issue in hand is decided in affirmative.

Issue No. 02:

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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:

These 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.

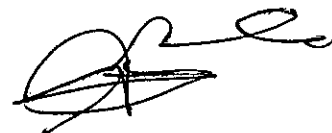
The issues are decided in positive.

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 her correct parent's names as **Niaz Badshah** and **Hassan Bibi**. Parties are left to bear their own costs. Plaintiff shall pay all the fee for correction as required by the NADRA.

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

Announced
30/01/2020



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

CERTIFICATE

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



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