

(40)

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

Civil Suit No. 127/1 of 2019  
Date of Institution: 17/06/2019  
Date of Decision: 15/10/2019

**Mehnaz Ali s/o Muhammad Azam**

Resident of Village Dargai, PO Kurez, 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:**

Plaintiff, **Mehnaz Ali s/o Muhammad Azam**, 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 "**Muhammad Azam**" while it has been wrongly mentioned as **Arbab Ali**, furthermore, the correct name of the plaintiff's mother is **Noor Jamala** while it has been wrongly mentioned in the plaintiff's CNIC as **Amtola Jan** by the defendants, which are 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:**

  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

5

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 Muhammad Azam while it has been wrongly entered in his CNIC as Arbab Ali and whether the correct name of the mother of the plaintiff is Noor jamala, while it has been wrongly entered in his CNIC as Amtola Jan.
  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 Mehnaz Ali, the plaintiff himself, who recorded his statement. He stated that the correct name of his father is **Muhammad Azam**, while it has been wrongly entered in his CNIC as **Arbab Ali**, and the correct name of his mother is Noor Jamala while it has been mentioned wrongly as Amtola jan by the defendants. He produced his CNIC and exhibited the same as Ex. PW-1/1, copy of the CNIC of his father as Ex. PW-1/2, copy of mother's CNIC as Ex. PW-1/3. He requested for decree as prayed for. He was cross examined by the defendants.
8. PW-2, Shahab Ali, real brother of the plaintiff. He stated that the plaintiff is his real brother and Muhammad Azam and Noor Jamala are their real parents. He stated the same as PW-1. He exhibited his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.
9. PW-3, is Israf Ali, the cousin of the plaintiff, he supported the contention of the plaintiff. He produced and exhibited his CNIC




MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

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 card registration form 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 father's and mother's name.

  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Ghakzal, Hangu

Perusal of record and evidence present on file reveals that the correct name of the father of the plaintiff is Muhammad Azam and mother of the plaintiff is Noor Jamala. The real brother of the plaintiff namely Shahab Ali appeared and recorded his statement as PW-2 and exhibited his CNIC as Ex. PW-2/1. The said brother verified that the real names of their parents are Muhammad Azam and Noor Jamala, which is evident from his CNIC, already exhibited as Ex. PW-2/1. Interestingly, 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.*"

  
MUHAMMAD AVAZ  
Senior Civil Judge,  
Orakzai at Hangu

In circumstances, the evidence of the brother of the plaintiff is the best available evidence, who have got personal knowledge regarding the parentage of the plaintiff. Hence, reliance is placed on the above judgement. Further, if the correction of parentage of the plaintiff is not made at this stage, it will create problems for not only plaintiff but also for the brother of the plaintiff in future. 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:**

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 his correct name of his father as **Muhammad Azam** and the correct name of the mother of the plaintiff as **Noor Jamala**, forthwith Parties are left to bear their own costs.

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

**Announced**  
15/10/2019



**(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).