

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

Civil Suit No. 138/1 of 2019
Date of Institution: 26/06/2019
Date of Decision: 05/11/2019

Hazir Khan s/o Abdul Aziz
Resident of Village Tor Samat, 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:


MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hangu

Plaintiff, **Hazir Khan s/o Abdul Aziz**, 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 “**Abdul Aziz**” while it has been wrongly mentioned as “**Abdul Latif**” 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:

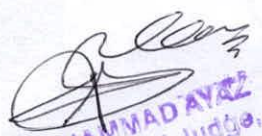
1. Whether plaintiff has got cause of action.

2. Whether suit of plaintiff is within time.
 3. Whether the correct name of the father of the plaintiff is **Abdul Aziz** while it has been wrongly entered in his CNIC as **Abdul Latif**.
 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, Abdul Aziz, is the father of the plaintiff. He appeared and recorded his statement wherein he stated that the plaintiff is his son and his correct name is Abdul Aziz, while it has been wrongly entered as Abdul Latif in the plaintiff's CNIC. Further, he added that his name in his all children CNICs is correctly entered as Abdul Aziz. He produced and exhibited his CNIC as Ex. PW-1/1. He is cross examined by the defendants through attorney.
8. PW-2, Hazir Khan, is the plaintiff himself, who recorded his statement. He stated that the correct name of his father is Abdul Aziz. He added, that the father name in his siblings CNICs is entered correctly as Abdul Aziz and he produced their CNICs respectively. He produced and exhibited copy of his CNIC as Ex. PW-2/1, copy of his mother CNIC as Ex. PW-2/2, copy of CNIC of his elder brother namely Amin Jan as Ex. PW-2/3, copy of CNIC of another brother namely Rasheed Khan, as Ex. PW-2/4, copy of CNIC of younger brother as Ex. PW-2/5 and copy of his


MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hanqu

domicile certificate as 2/6. He requested for decree as prayed for. He was cross examined by the defendants.

9. PW-3, Muhammad Munir, is the co-villager of the plaintiff, who appeared and recorded his statement wherein he stated that he is the son of Abdul Latif, and the name Abdul Latif entered in the plaintiff's CNIC is wrong and the real name of the father of the plaintiff is Abdul Aziz. He further stated that the plaintiff is neither his brother and nor a family member but his father name was wrongly entered in the plaintiff CNIC by the defendants. He produced and exhibited copy of his CNIC as Ex.PW-3/1, copy of his father CNIC as Ex.PW-3/2. He is cross examined by the defendants through attorney.


MUHAMMAD AYAZ
Senior Civil Judge
Orakzai at Hangu

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 record form of plaintiff and exhibited the same as Ex. DW-1/1, overseas ID card form 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:


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 issue in hand is decided in negative.

Issue No.03:

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


MURAD ALI
Senior Civil Judge
Orakzai at Harau

Perusal of record and evidence present on file reveals that the correct name of the father of the plaintiff is Abdul Aziz. The father of the plaintiff namely Abdul Aziz appeared and recorded his statement as PW-1 and exhibited his CNIC as Ex. PW-1/1. The father of the plaintiff verified that his name was wrongly written in the CNIC of the plaintiff as Abdul Latif, which is against the facts, as his real name is Abdul Aziz. The real father of the plaintiff is in good position to tell his real name. Moreover, the exhibited CNICs of the family members/siblings of the plaintiff are 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.

In circumstances, the evidence of the father of the plaintiff is the best available evidence to tell his real name as the father of the plaintiff. Even otherwise, it is the fundamental right of the plaintiff to correct his father name in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the father name of the plaintiff is 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. It is held that 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. 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 **Abdul Aziz**. Parties are left to bear their own costs.

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


Announced
06/11/2019



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

CERTIFICATE

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).