

IN THE COURT OF REHM1AT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT BABER MELA

Civil Suit No. 50/1 of 2019

Date of Institution: 26/06/2019

Date of Decision: 25/10/2019

Tooti Khan S/O Jalandar Khan
R/O Qom Ali Khel, Kot Tehsil Upper District Orakzai (Plaintiff)

VERSUS

1. Registrar, General NADRA, Islamabad, Pakistan.
2. Deputy Registrar General, Peshawar.
3. Assistant Director, NADRA, District Orakzai.
Through System Engineer, NADRA, Orakzai. (Defendants)

**SUIT FOR DECLARATION -CUM- PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

1. Plaintiff through his special attorney Javid Khan has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants Registrar General NADRA, Islamabad, Pakistan through System Engineer, NADRA, Bahadur Banda, District Orakzai and 02 others seeking therein that correct name of the father of the plaintiff is **Jalandar Khan** while that of mother is **Zarsanga** whereas, defendants have wrongly incorporated the same as **Jabbar** and **Hussain Jana** instead of **Jalandar Khan** and **Zarsanga**, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of parent's names of the plaintiff but they refused to do so, hence the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got any cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of the plaintiff is time barred?
4. Whether the correct father name of the plaintiff is **Jalandar Khan** and correct mother's name is **Zarsanga** while the same are wrongly mentioned as Jabar and Hussain Jana in the CNIC of the plaintiff?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.


Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the

opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 26-06-2019. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that his correct name of his father is **Jalandar Khan** and correct name of his mother is **Zarsanga**, respectively according to his parents CNICs. whereas, defendants have wrongly entered the same as **Jabbar** and **Hussain Jana** instead of **Jalandar Khan** and **Zarsanga**, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of parent's names of the plaintiff but they refused to do so, hence the present suit;

 The plaintiff produced witnesses in whom the plaintiff himself appeared as PW-1, who produced his Manual Father's NIC and Mother's CNIC Which are Ex. PW-1/1 and Ex. PW-1/2 respectively and that according to these documents, the correct names of the parents of the plaintiff are **Jalandar Khan and Zarsanga**. Further, Mr. Javid Khan S/O Jalandar Khan, the brother and special attorney of the plaintiff appeared as PW-2, who produced his own CNIC which is Ex. PW-2/1, and further narrated the same story as in the plaint. Further Mr. Jan Akber S/o Sultan Akber, the cousin of the plaintiff appeared as PW-3,

who narrated the same story as in the plaint and produced his own CNIC is Ex. PW-3/1. All witnesses were cross examined but nothing solid has been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced the "Form A" and "Family Tree" of the plaintiff which are exhibited as Ex. DW-1/1 and DW-1/2 respectively, but admitted in his cross examination that it is correct that there is no mention of the NIC Number in the Ex DW-1/1 and that there is no mention of the manual NIC number of the one Jabbar in the same in that the column showing the relationship with the head of the family is blank in the same.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the correct names of the parents of the plaintiff are mentioned in the Ex. PW-1/2 and Ex. PW-1/3, which the defendants failed to rebut. Thus, these documents are sufficient to prove the contention of the plaintiff as true. Hence, the issue decided in positive.

Issue No. 01 &05:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.


RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with no order as to costs.

Defendants are directed to issue CNIC to the plaintiff as per his correct parent's names i.e. **Jalandar Khan** and **Zarsanga**.

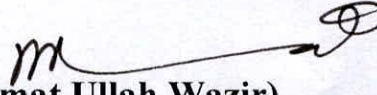
File be consigned to the Record Room after its completion and compilation.

Announced
25/10/2019


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this judgment of mine consists of **05** pages, each has been checked, corrected where necessary and signed by me.


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.