

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

Suit No: 56/1 of 2019
 Date of Institution: 09.07.2019
 Date of Decision : 25.10.2019

Japan Begum W/O Muhammad Sharif Khan resident of Sra Khoona,
 Tehsil Lower, District Orakzai.....(Plaintiff)

VERSUS

1. Chairman NADRA, Islamabad.
 2. Director General NADRA, KPK, Peshawar.
 3. Assistant Director NADRA, District Orakzai.
-(Defendants)

SUIT FOR DECLARATION-CUM-PERPETUAL AND
MANDATORY INJUNCTION

JUDGEMENT:

1. Plaintiff through special attorney has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants Chairman NADRA, Islamabad, Director General NADRA, KPK, Peshawar through Assistant Director, NADRA, District Orakzai seeking therein that her correct husband's name is **Muhammad Sharif Khan**, whereas the defendants in their record have wrongly entered the same as **Abbas Khan** instead of **Muhammad Sharif Khan**, which is wrong, ineffective upon the rights of the plaintiff and liable to be corrected. Defendants were asked time and again but they refused to do so, hence the present suit.
2. Defendants were summoned, who appeared before the court through representative and contested the suit by filing written statement.

Rehmat Ullah Wazir
 Civil Judge/JM-I
 Orakzai at (Babar Mela)

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 within time?
4. Whether the correct name of the plaintiff's husband is **Muhammad Sharif Khan** and the same has been mentioned by the defendants in their record as **Abbas Khan**?
5. Whether plaintiff is entitled to the decree as prayed for?
6. Relief.

Both the parties were accorded opportunity to adduce evidence in support of their respective stance, which they accordingly availed.

After closing evidence of the parties, arguments of the learned counsel for the parties heard and record perused.

Issue wise findings 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


 Rehmat Ullah Wazir
 Civil Judge/JM-I
 Orakzai at (Babar Meia)

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 09-07-2019. Thus, the same is well within time. The issue is decided in positive.

ISSUE No.04

The plaintiff alleged in her plaint that her correct husband's name is **Muhammad Sharif Khan**, according to her husband CNIC, which clearly show that the name of the husband mentioned in the plaintiff CNIC is the father in law of the plaintiff. Whereas, defendants have wrongly entered the same as **Abbas Khan** instead of **Muhammad Sharif Khan**, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of the husband name of the plaintiff but they refused to do so, hence the present suit;

The plaintiff produced witnesses, in whom the one Sajjad Ali S/O Noor Muhammad, the father of the plaintiff appeared as PW-1. He produced his own CNIC which is Ex. PW-1/1 and further narrated the same story as in the plaint. Further, Shams Ali S/O Shahadat Ali, the cousin of the plaintiff appeared is PW-2, he also supported the contention of the plaintiff and produced his own CNIC which is Ex. PW-2/1. Further Mr. Noor Hashim Khan S/O Khan Meen Ali, the relative of the plaintiff appeared as PW-3, who

Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai (Babar Mela)

narrated the same story in the plaint. Further, Muhammad Sharif Khan, the special attorney and husband of the plaintiff appeared as PW-4. He produced his special power of attorney and his own CNIC, which are Ex. PW-4/1 and Ex. PW-4/2 respectively. Further, he produced his father's CNIC which is Ex. PW-4/3 and stated that Abbas Khan is his father.

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 "Record Form" of the plaintiff which are exhibited as Ex. DW-1/1 and DW-1/2 respectively, and that according to this the correct name of the plaintiff's husband is **Abbas Khan** but admitted is his cross examination that it is correct that the name of the father of the plaintiff is Sajjad Ali and her husband's name is Muhammad Sharif Khan. Further that it is correct that the father name of Muhammad Sharif Khan and his brother is Abbas Khan and that the plaintiff is an illiterate lady.

Handwritten signature and stamp:
 Hon'ble Ullah Wazir
 Civil Judge/JM-1
 Orakzai at (Babar Meja)

(30)

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff established her claim through cogent and reliable evidence which the defendants failed to rebut, therefore, 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 her correct husband's name i.e. **Muhammad Sharif Khan.**

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

Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai at (Babar Mela)

CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been corrected and signed by me wherever necessary.


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

Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai at (Babar Mela)

(31)