

4

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

Civil Suit No. 45/1 of 2019
Date of Institution: 12/04/2019
Date of Decision: 05/11/2019

Khaista Mir s/o Baz Mir

Resident of Village Balyana, 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, **Khaista Mir s/o Baz Mir**, 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 "**Baz Mir**" while it has been wrongly mentioned as "**Baz Mir Khan**" by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Habib Ullah Khan 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.


MUHAMMAD AYAZ
Senior Civil Judge
Orakzai at Hangu

3. Whether the correct name of the father of the plaintiff is **Baz Mir** while it has been wrongly entered in his CNIC as **Baz Mir Khan**.
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, Shehzad Mir, is attorney and brother of the plaintiff, who recorded his statement. He stated that the correct name of the father of the plaintiff is **Baz Mir**, and the father name **Baz Mir Khan** entered in CNIC of the plaintiff is incorrect. He produced the exhibited power of attorney as Ex. PW-1/1, copy of his father CNIC as Ex. PW-1/2, He produced copy of his own CNIC and exhibited the same as Ex. PW-1/3 and copy of the CNIC of his brother as Ex. PW-1/4. He requested for decree as prayed for. He was cross examined by the defendants.
8. PW-2, Muhammad Wajid, is relative of the plaintiff. He stated that plaintiff is his relative and Baz Mir is the real father of the plaintiff. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.
9. PW-3, Gul Marjan, is neighbor of the plaintiff, who stated that the real name of the father of the plaintiff is Baz Mir. 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


MUHAMMAD AYAZ
Senior Civil Judge,
(Retired) at Hangu

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 his correct father's name.


MUHAMMAD AYAZ
Senior Civil Judge,
Fazal Bangu.

Perusal of record reveals that correct name of the father of the plaintiff is Baz Mir. The real brother of the plaintiff namely Shehzad Mir appeared and recorded his statement as PW-1 and exhibited his CNIC as Ex. PW-1/3. The said brother verified that the correct name of the father of the plaintiff is Baz Mir, and the father name in the CNIC of the plaintiff as Baz Mir Khan is incorrect, which is against the facts. The real brother of the plaintiff is in good position to tell the real name of the father of the plaintiff. 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.

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. Interestingly, the correction sought by the plaintiff is only to the extent of deletion of word "KHAN" from the name of the father of the plaintiff, which is correction of spellings and sur-name. It can be corrected at any stage even by the NADRA itself, without the present suit.


MUHAMMAD AYAZ
Senior Civil Judge,
Sajal at Hangu

In circumstances, the evidence of the brother of the plaintiff is the best available evidence, who has got personal knowledge regarding the correct father name of the plaintiff. 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 **Baz Mir**. Parties are left to bear their own costs.

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

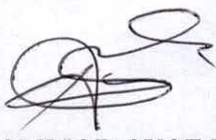
Announced

05/11/2019


(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).