

37

**IN THE COURT OF FARMAN ULLAH,**  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 223/1 of 2019  
Date of Institution: 19/12/2019  
Date of Decision: 15/12/2020

**Aroopa w/o Khyber Khan**

Resident of Narh Kalay Section Utman Khel, Sub Section Branka Khel, PO Feroz Khel, Tehsil Lower & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Assistant Director, Registration NADRA District Orakzai.**
3. **Director General, NADRA Hayat Abad Peshawar.**

(Defendants)

**SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION**

**JUDGEMENT:**

15.12.2020

Brief facts of case in hand are that the plaintiff, **Aroopa w/o Khyber Khan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that her husband's correct name is "**Khyber Khan**" while defendants have wrongly mentioned the same as "**Mashal Khan**" in their record, which is incorrect and liable to be corrected. That defendants were repeatedly asked to correct the name of her husband in her CNIC and in their but they refused.

Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written

**FARMANULLAH**  
Senior Civil Judge  
Orakzai at Baber Mela

15.12.2020

statement, wherein they contested the suit of plaintiff on various grounds.

Divergent pleadings of the parties were reduced into the following issues;

**Issues:**

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is within time?
3. Whether the correct name of husband of the plaintiff is “**Khyber Khan**” while defendants have wrongly mentioned the same as “**Mashal Khan**” in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.

Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced her witnesses as PW-1 to PW-3.

In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record as Ex. DW-1/1 to Ex. DW-1/3.

After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:

**Issue No. 02:**

Perusal of record reveals that CNIC was issued to the plaintiff on 31.10.2015 while plaintiff filed instant suit on 19.12.2019 by challenging her husband’s name mentioned in her

FARMANULLAH  
Senior Civil Judge  
Oral at Habber Mela  
15-12-2020

CNIC. Period provided for filing declaratory suit under Article 120 of Limitation Act is 06 years. So, the suit in hand has been instituted within time, hence, issue is decided in positive.

**Issue No.03:**

Plaintiff contended in her plaint that her husband's correct name is "Khyber Khan" but the same was wrongly recorded as "Mashal Khan" in NADRA record. Hence, the record is liable to be corrected.

*Handwritten signature and date:*  
15.12.2022  
Muhammad Riaz  
Attorney at Law  
District Court  
Faisalabad

Muhammad Riaz, attorney of the plaintiff appeared as PW-1 and he repeated the contents of the plaint in his examination in chief. He produced plaintiff's CNIC as Ex.PW-1/1, CNICs of plaintiff's sons namely Aqaa Khel and Hazrat Ullah as Ex.PW-1/2 and Ex.PW-1/3, while PW-2, stated in his examination in chief that Khyber Khan was his brother and plaintiff was wife of Khyber Khan while Mashal is his cousin. He stated that correct name of husband of plaintiff is Khyber Khan but in her CNIC the same has been wrongly mentioned as Mashal Khan. He produced and exhibited his CNIC as Ex.PW-2/1. PW-3, who is brother of the plaintiff, also supported the contention of the plaintiff. PW-1 to PW-3 were subjected to cross examination but nothing substantial was brought on record which could have

shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. So, the oral and documentary evidence exhibited as Ex.PW-1/2 and Ex.PW-1/3 produced by the PW-1 clearly establishing that correct name of the husband of the plaintiff is "Khyber Khan" while the name mentioned "Mashal Khan" as husband of the plaintiff in NADRA record is incorrect. So, the incorporation of husband's name of the plaintiff as "Mashal Khan" instead of "Khyber Khan" in the record of NADRA appears to be a mistake. Hence, the issue No. 2 is decided in positive.

**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:**

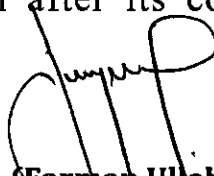
Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record by incorporating the husband's name of plaintiff as "Khyber Khan" in their record. Parties are left to bear their own costs.

15.12.2020

41

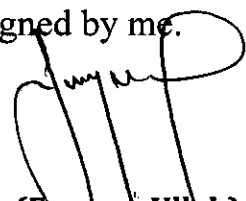
6. File be consigned to the record room after its completion and compilation.

**Announced**  
15/12/2020

  
**(Farman Ullah)**  
Senior Civil Judge,  
Orakzai (at Baber Mela).  
**FARMANULLAH**  
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.

  
**(Farman Ullah)**  
Senior Civil Judge,  
Orakzai (at Baber Mela).  
**FARMANULLAH**  
Senior Civil Judge  
Orakzai at Baber Mela