

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

| | |
|-------------------------------|--------------|
| Civil Suit No. | 28/1 of 2020 |
| Date of Original Institution: | 03/03/2020 |
| Date of Decision: | 21/09/2020 |

1. *Shinaka D/O Gulmaan (w/o Gul Rehman), Qoum Rabia Khel, Tappa Babi Khel, Tehsil Upper, District Orakzai.*

(Plaintiff)

VERSUS

1. *Chairman NADRA, Islamabad, Pakistan.*
2. *Director General NADRA, KPK, Peshawar.*
3. *Assistant Director, NADRA, District Orakzai.*

Through

Assistant Director NADRA, Orakzia.....

(Defendants)

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

JUDGEMENT:

1. Plaintiff Shinaka has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that the correct names of the plaintiff's parents are Gulmaan (father) and Maseeda (mother) whereas the defendants have wrongly entered their names as Mughal Shah and Kamtara instead of Gulmaan and Maseeda in her CNIC, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time

Rehmata Ullah Wazir
 Civil Judge-I
 Orakzai District Orakzai

and again for correction of the parents' 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 plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether suit of the plaintiff within time?*
4. *Whether the correct names of the plaintiff's parents are Gulmaan and Maseeda while the defendants have wrongly entered their names as Mughal Shah and Kamtara in her CNIC.*
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 the 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 03.03.2020. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in her plaint that the correct parents' names of the plaintiff are Gulmaan (father) and Maseeda (mother) whereas the defendants have wrongly entered their names as Mughal Shah and Kamtara instead of Gulmaan and Maseeda in her CNIC, 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 parents' names of the plaintiff but they refused to do so, hence the present suit;

Handwritten signature
 Retired Justice Wazir
 Civil Judge (FATA)
 Quetta (Retired Judge)

The plaintiff produced witnesses in whom attorney for the plaintiff appeared as PW-1, who produced his special power of attorney as Ex.PW-1/1, copy of his CNIC as Ex.PW-1/2, copy of CNIC of his father as Ex.PW-1/3, copy of CNIC of his brother as Ex.PW-1/4, his Family Registration certificate (FRC) as Ex.PW-1/5, copy of CNIC of his sister as Ex.PW-1/6 and copy of CNIC of his maternal uncle as Ex.PW-1/7. Further, narrated the same story as in the plaint. Further, the other son of the plaintiff namely Gul Marjan appeared as PW-02, who supported the stance of the plaintiff by narrating the same story as in the plaint. Both the witnesses were cross examined but nothing tangible 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 CNIC Processing Form and Form "A" of the plaintiff which are Ex. DW-1/1 to Ex. DW-1/2 respectively and that according to this, parents' names of the plaintiff are Mughal Shah and Kamtara but admitted in his cross examination that the correct name of the husband of the plaintiff is Gul Rehman while Mughal Shah and Kamtara are the parents of Gul Rehman.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the evidence, so produced, by the plaintiff is sufficient to prove her contention to be true. Moreover, defendants have not been able to rebut the claim of the plaintiff through solid and confidence inspiring evidence rather their representative admitted in his cross examination what is claimed by the plaintiff. Thus, in the light of the aforesaid findings, the issue is 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:

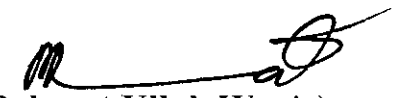
As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with no order as to costs.

Defendants are directed to issue CNIC to the plaintiff as per his correct parents' names i.e Gulmaan (father) and Maseeda (mother).

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

Announced
21/09/2020


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

CERTIFICATE

Certified that the judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.


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

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DECREE SHEET

**IN THE COURT OF REHMAT ULLAH WAZIR CIVIL JUDGE-I
ORAKZAI**

Suit No. 28/1 of 2020

Date of institution.....03-03-2020

Date of decision21-09-2020

(1)Shinaka D/O Gulmaan (w/o Gul Rehman), Qoam Rabia khel, tappa
babi khel, Tehsil Upper, District Orakzai

..... (Plaintiff)

VERSUS

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

Through

Assistant Director NADRA, District Orakzai

.....(Defendant)

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

1. This suit coming on the date 3rd day of March 2020 for final disposal before me, Vide my detailed judgement of today, consist of 06 pages, the suit of the plaintiffs is decreed in favour of plaintiff and against the defendants as prayed for with is No order is to Cost.
2. Suit is disposed off as per the amended rules of CPC.
3. File be consigned to Record room after completion.

Announced
21/09/2020

COSTS OF SUIT

| PLAINTIFF | CONTENTS | DEFENDANT |
|-----------|--------------------|-----------|
| | Stamp on suit | |
| | Pre-emption amount | |
| | Commission fee | |
| | Stamp of power | |
| | Proclamation fee | |
| | Witness expensive | |
| | Court fees | |
| | Total | |

Note: Given under my hand signature and seal stamp of this court on 21th day of, September, 2020.

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