(25)

IN THE COURT OF MUHADMMAD IMTIAZ
CIVIL JUDGE-II, ORAKZAI

Suit No..... 78/1 of 2019
Date of Institution..... 14/10/2019
Date of Decision..... 19/02/2020

Bibi Zohra W/O Hunar Baz, R/O: Sec. Ali Kheil, Tappa Sher Kheil, Alif Kheil, P.O Tehsil Giljo,Upper; District Orakzai.

..... **(Plaintiff)**

VERSUS

1. Chairman Nadra, Islamabad
2. Director General Nadra Hayatabad Peshawar, KPK
3. Assistant Director General Nadra District Orakzai at Hangu

.....**(Defendants)**

SUIT FOR DECLARATION, PERPETUAL AND DIRECTORY INJUNCTION

Mr. Abid Ali Advocate for the Plaintiff
Defendants through representative MR. Farhat Abbas

JUDGMENT

1. Brief facts of the case are that Plaintiff filed suit for Declaration along with Perpetual and Directory Injunction to effect that Plaintiff **Correct** Date of birth is ***01/01/1960*** while in the defendant's record **(CNIC No. 21604-4307326-6)** her Date of birth is recorded as ***01/01/1964*** which is wrong, clerical mistake and liable to be corrected.

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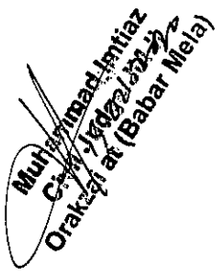
2. Defendant were summoned through the Process of the Court upon which the they appeared, through representative Mr. Farhat Abbas filed Written Statement and denied the claim of the plaintiff and objected the same on so many legal and factual grounds.



3. Pleadings of the parties were reduced to the following issues.

ISSUES:

(1) *Whether the plaintiff has got the cause of action? OPP*

(2) *Whether suit of the plaintiff is bad in its present form? OPD*

(3) *Whether correct date of birth of plaintiff is 01-01-1960 whereas defendants have wrongly recorded the same in their record as 01-01-1964? OPP*

(4) *Whether the plaintiff is entitled to the decree as prayed for? OPP*

Relief

4. Parties were provided with an opportunity to produce their respective evidence who accordingly produced them as follows:

PW- NAME	DOCUMENTS PRODUCED	EXHIBIT
PW-01	**a**. Copy of his CNIC	**a.Ex**.PW01/01
Nazir Khan **"Son"** of the Plaintiff	**b**. His Power of attorney	**b.Ex**.PW 01/02
	c. Copy of CNIC of his brother	**c.Ex**.PW 01/03

PW-02 Hunar Baz **"Husband"** of Plaintiff	**a.** Copy of his CNIC	**a. Ex**.PW 02/01
PW-03 Sher Bahadur **"Relative"** of Plaintiff		
PW-04 Bibi Zohra **"Plaintiff"** herself	**a.** Copy of his CNIC	**a. Ex**.PW 04/01

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Orakzai at (Baber Mela)
19.02.2021

Then after Plaintiff closed his evidence. On the other hand, Defendants produced the following evidence.

DW- NAME	DOCUMENTS PRODUCED	EXHIBIT
DW-01 **"Representative"** of the defendants Mr. Farhat Abbas	a. CNIC Processing form of the Plaintiff b. Plaintiff's family tree by marriage	**a. EX**. DW 1/1 **b. EX**.DW-1/2

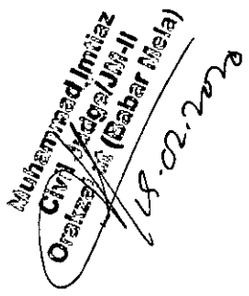
Evidence of the Defendant then closed

5. With the valuable assistance of learned counsel for the parties, I have gone through the record. My issue wise findings are as under: -

Issue No. 02:- ***Whether suit of the plaintiff is bad in its present form? OPD***

6. Perusing the case file and going through the evidence recorded by the parties' defendants fail to point out any defect or illegality in the form of the suit.

7. Hence above issued is decided in "**Negative**"



Issue No.03:- Whether correct date of birth of plaintiff is 01-01-1960 whereas defendants have wrongly recorded the same in their record as 01-01-1964? OPP

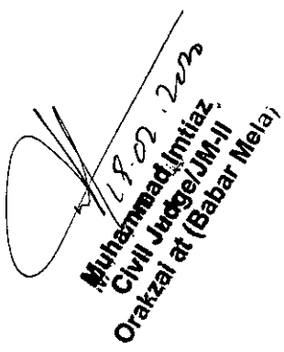
8. Onus to prove this issue is upon the plaintiff. Perusal of case file reveals that this is the main contention of the plaintiff.

9. To discharge her burden plaintiff appear herself along with her husband, Son and one of her relative. Although she has not submitted any documentary evidence and produced only and relied upon the oral evidence.

10. It is admitted fact as per EX.PW 4/1 and EX.PW 2/1 that correct name of the plaintiff is بی بی زہرہ and her husband name is ہنرباز.

11. PW 1 in his cross examination admitted that name of her mother is بی بی زر جانہ. His words are reproduced as under: -

"۔۔۔میں نے بوقت حصول قومی شناختی کارڈ اپنی والدہ کا نام بی بی زرجانہ بتلایا تھا۔ یہ درست ہے کہ میری والدہ کا نام بی بی زرجانہ ہے اور گھر اور خاندان میں اسی نام سے جانا اور پہچانا جاتا ہے۔ میرے والد صاحب کی دوسری بیوی نہ ہے"



12. The same fact also depicts as true and Ex. DW-1/2. While in Ex. DW-1/2 plaintiff's name is mentioned as بی بی زہرہ and her husband name as mentioned as ہنر باز. That makes the case of the plaintiff doubtful that whether PW-1 is her son or not. Although correction in name of the Plaintiff at this stage cannot be touched upon for the reason that this is not matter before the Court. As Court cannot have touched upon those matter for the purpose of relief which are not agitated by the parties.

13. There is no credible evidence neither documentary nor oral available on the case file to support Plaintiff's stance. It is also evident from the case file that Plaintiff is seeking correction for the sake of her Son namely Nazir Khan by alleging that his CNIC is blocked due to unnatural difference in her and her son Date of Birth. Her words are reproduced as under: -

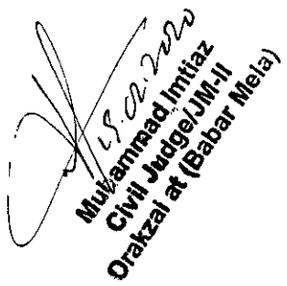
کیونکہ مدعیہ کے پہلے بیٹے نظیر خان کی تاریخ پیدائش 1978 ہے۔ بدیں وجہ شناختی کارڈ بیٹا مدعیہ نظیر خان بلاک ہے اور تجدید نہیں ہو رہے۔ درستگی مطلوب ہے درستگی فرمائی جائے۔

Which clearly manifest that Plaintiff is interested in reviving of her son CNIC. For that very reason she want to change/amend her Date of Birth.

14. For what has discussed above this issue is decided in **"Negative".**

Issue No.01:- ***Whether plaintiff has got the cause of action? OPP***

Issue No.04:- ***Whether the plaintiff is entitled to the decree as prayed for? OPP***



15. Both issues are inter-related, will be decided together. On the basis of discussion, while deciding issue No.03, Plaintiff has ***not*** got cause of action. Plaintiff is **not entitled** to the decree as prayed for.

Hence both issued are decided in **"Negative".**

Relief

16. As plaintiff failed to prove her case through cogent, credible and reliable evidence the same is hereby stands dismissed at the cost of Rs.100/-.

17. File be consigned to record room after its necessary completion.

ANNOUNCED:
19.02.2020

Muhammad Imtiaz
Civil Judge/JM-II
Orakzai at (Babar Mela)

MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

CERTIFICATE

Certified that this judgment consists of six (06) pages and each page is read over, checked and corrected wherever necessary.

Muhammad Imtiaz
Civil Judge/JM-II
Orakzai at (Babar Mela)

MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

DECREE SHEET

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IN THE COURT OF MUHAMMAD IMTIAZ CIVIL JUDGE-II ORAKZAI

Suit No. 78/1 of 2019
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(1) Bibi Zohra W/O Hunar Baz, R/O, Sec. Ali Khel, Tapa Sher Khel, Alif Khel, P.O Tehsil Ghiljo Tehsil Upper, District Orakzai.

..... (Plaintiff)

VERSUS

(1) Registrar General Nadra, Islamabad
(2) Deputy Registrar General Nadra Peshawar, KPK
(3) Assistant Registrar General Nadra District Orakzai.

.....(Defendants)

SUIT FOR DECLARATION, PERPETUAL AND MANDATORY INJUNCTION

This suit coming on the date 19th day of February 2020 for final disposal before me, in presence of counsel for the plaintiff Mr. Abid Ali advocate and representative for defendants Mr. Farhat Abbas. It is ordered that Keeping in view my detail judgement separately placed on file consisting of 06 pages. It is ordered that

1. As plaintiff failed to prove her case through cogent, credible and reliable evidence the same is hereby stands dismissed at the cost of Rs.100/-.

2. File be consigned to record room after its necessary completion.

COSTS OF SUIT

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

Note: Given under my hand signature and seal stamp of this court on 19th day of, February, 2020.

Muhammad Imtiaz
Civil Judge-II
Orakzai (Lower Mela)

Muhammad Imtiaz
Civil Judge-II, Orakzai.