

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

Civil Suit No. 328/1 of 2020  
Date of Institution: 14/09/2020  
Date of Decision: 27/01/2021

**Isar Jan s/o Zarak**

Section Qambar Khel Dray Plary Sar Buland Khel, Nogazi Baba P/O Barha Village  
Qambar Abad Tehsil Barha District Khyber (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

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

**JUDGEMENT:**

27.01.2021

Brief facts of case in hand are that the plaintiff, **Isar Jan s/o Zarak**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his father's correct name is **Zarak Khan** and correct address is **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village Qambar Abad, Tehsil Bara District Khyber** while defendants have wrongly mentioned his father's name as **Syed Nazeer** and address as **Qaum Ali Khel, Tappa Jasrat Khel, Shakar Nawasi Kaly P/O Ghiljo, Tehsil upper and District Orakzai** in their record, which are incorrect and liable to be corrected. Hence, the present suit.

  
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 Senior Civil Judge  
 Orakzai at Baber Mela


27.1.21

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written 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 father of the plaintiff is **Zarak Khan** whereas defendants have wrongly recorded the same in their record as Said Nazeer?
4. Whether correct address of plaintiff is **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village Qambar Abad, Tehsil Bara District Khyber** whereas defendants have wrongly recorded the same as **Qaum Ali Khel, Tappa Jasrat Khel, Shakar Nawasi Kaly P/O Ghiljo, Tehsil upper and District Orakzai**, in their record?
5. Whether plaintiff is entitled to the decree as prayed for?
6. Relief?

  
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7. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-3.
8. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the registration record of the plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.

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

10. My issues wise findings are as under:

**Issue No. 3 and 4:**

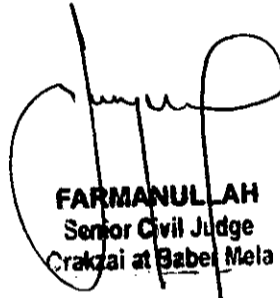
Both the issues are interlinked and interconnected, hence to avoid repetition of facts, the same are taken together for discussion. Plaintiff contended in his plaint that his father's correct name is **Zarak Khan** and correct address is **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village Qambar Abad, Tehsil Bara District Khyber** but inadvertently his father's name has been recorded as **Said Nazeer** and address as **Qaum Ali Khel, Tappa Jasrat Khel, Shakar Nawasi Kaly P/O Ghiljo, Tehsil upper and District Orakzai**, in NADRA record. Hence, the record is liable to be corrected.

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Senior Civil Judge  
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Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced various documents as Ex. PW-1/2 to Ex.PW-1/5 while PW-2, Mir Khan, stated in his examination in chief that he is real paternal uncle of the plaintiff and correct father's name of the plaintiff is **Zarak Khan** and correct address is **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village Qambar Abad, Tehsil Bara District Khyber**. He also stated that after death of father of plaintiff, his mother contracted second marriage with Said

Nazeer at Orakzai and plaintiff also shifted to Orakzai with his mother. He produced his CNIC as Ex.PW-2/1. PW-3 is the statement of Said Nazeer, who stated in his examination in chief that he is not the father of plaintiff, rather plaintiff is the son of Zarak Khan and he contracted marriage with mother of plaintiff after death of Zarak Khan. He further stated that plaintiff came to Orakzai along with his mother and due to worse law and order situation in Khyber Agency, CNIC of plaintiff was obtained in Orakzai and his name was mentioned as father of plaintiff in CNIC. 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 produced by the plaintiff clearly establishing that plaintiff is the son of **Zarak Khan** and belonging to **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village Qambar Abad, Tehsil Bara District Khyber**. The incorporation of father's name of plaintiff as **Said Nazeer** and address as **Qaum Ali Khel, Tappa Jasrat Khel, Shakar Nawasi Kaly P/O Ghiljo, Tehsil upper and District Orakzai**, in the record of NADRA is contrary to facts. Hence, the issue No. 3 and 4 are decided in positive.

  
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**Issue No. 02:**

Perusal of record reveals that plaintiff through instant suit is seeking correction of his father name and his address. Such rights are inborn right of any individual and cause of action accrues whenever it is denied or refused. Record shows that plaintiff applied for correction of his father name and address in his CNIC in year 2020 and which was declined by defendants, hence cause of action accrued to the plaintiff in year 2020 when defendants refused to correct the same while plaintiff filed instant suit in the same year, hence, suit in hand is within time.

Hence, issue No.2 is decided in positive.

**Issue No. 01 & 06:**

These issues are taken together. For what has been held in issue No. 3 & 4 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 father's name of the plaintiff as **Zarak Khan** and address as **Section Qambar Khel, Dray Plary, Sar Buland Khel, Nogazi Baba PO Barha, Village**

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**Qambar Abad, Tehsil Bara District Khyber** in their record.

Parties are left to bear their own costs.

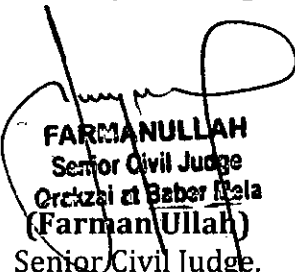
11. File be consigned to the record room after its completion and compilation.

**Announced**  
27/01/2021

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

**CERTIFICATE**

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

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