

50

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

Civil Suit No. 341/1 of 2020
Date of Institution: 06/10/2020
Date of Decision: 08/02/2021

Sajid Ali s/o Muhammad Nazeer

Section Sepoy, Sub Section Metha Khan Khel, Tehsil Ismail Zai & District Orakzai..... (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

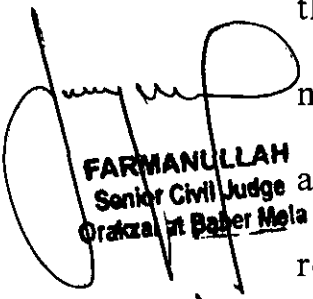
JUDGEMENT:

08.02.2021

Brief facts of case in hand are that the plaintiff, **Sajid Ali s/o Muhammad Nazeer**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct name is "**Sajid Ali**" while it has been wrongly mentioned as "**Shahid Ali**" in his CNIC. That he repeatedly asked defendants to correct his name by issuing CNIC but they refused. Hence, the present suit.

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.

Sajid Ali vs NADRA


FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
08.2.21

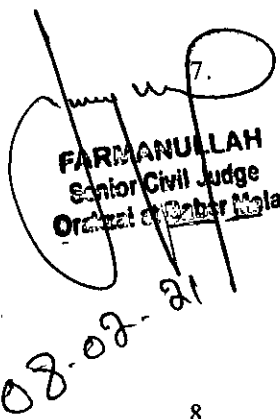
Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is within time?
3. Whether the correct name of the plaintiff is "Sajid Ali" while defendants have wrongly mentioned the same as "Shahid Ali" in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.
6. 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-4.
7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record form of plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/4.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

Issue No. 02:

Perusal of record reveals that, cause of action accrued to the plaintiff for the first time when he applied for pension after merger of FATA in Khyber Pakhtunkhwa in year, 2018 as earlier pension was not permissible to Khasadar and which was


FARMANULLAH
 Senior Civil Judge
 Orakzai District Mula
 08-02-21

refused due to difference in his name in service record and his CNIC and last when defendants refused to correct his name in his CNIC in year 2020. Hence, the suit of plaintiff is within time. The issue is decided in positive.

Issue No.03:

Plaintiff contended in his plaint that his correct name is "Sajid Ali" but inadvertently the same has been recorded as "Shahid Ali" in NADRA record. Hence, the record is liable to be corrected.

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 his medical certificate as Ex.PW-1/2 and Service card as Ex.PW-1/3 while PW-2, Iswan Ali, who is elder brother of plaintiff stated in his examination in chief that correct name of the plaintiff is "Sajid Ali". PW-3, Ashraf Ali, who is 2nd Cousin of the plaintiff, also supported the contention of the plaintiff. PW-4, Muhammad Shoaib, record keeper of Levy Orakzai, produced the service book of plaintiff as Ex.PW-4/1, MNIC as Ex.PW-4/2. Ex.PW-4/2 is manual ID card of plaintiff and the perusal of which reflects that name of plaintiff in the same has been mentioned as Sajid Ali. Similarly, in the service record of plaintiff produced as Ex.PW-1/2, Ex.PW-1/3 and Ex.PW-1/4 his name has been recorded as Sajid Ali. Even record produced by DW-1 as Ex.DW-1/1 and Ex.DW-1/2 also

FARMANULLAH
Senior Civil Judge
Orakzai & Babor Mala
08-02-21

reflects that name of plaintiff has been recorded as Sajid Ali and earlier CNIC Ex.PW-1/1 issued to the plaintiff with the same name. However, Ex. DW-1/3 depicts that later on plaintiff submitted affidavit to defendants for change of his name from Sajid Ali to Shahid Ali and subsequently CNIC was issued to the plaintiff in the name of Shahid Ali instead of Sajid Ali. Even plaintiff did not deny the same facts during course of arguments and admitted the same but contended that such change in the name was made by him due to clerical mistake in the record of educational documents of his children, wherein, the father name of his children was mentioned as Shahid Ali instead of Sajid Ali. He further submitted that after retirement from Service when he applied for pension then the concerned authority refused to process his request for the reason that in CNIC his name has been mentioned as Shahid Ali while in service record his name is Sajid Ali.

[Handwritten Signature]
 08.08.21
 MOHAMMAD WAHIDULLAH
 Senior Civil Judge
 District of Bahawalpur

From the oral and documentary evidence it is an established fact that real and correct name of plaintiff is Sajid Ali and incorporation of his name as Shahid Ali in his CNIC appears to be a mistake of plaintiff.

Hence, instant issue 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.

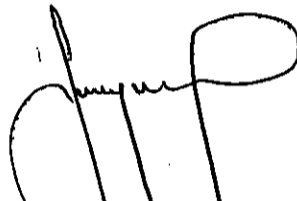
The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for and defendants are directed to correct the name of the plaintiff. Parties are left to bear their own costs.

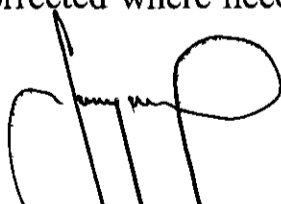
10. File be consigned to the record room after its completion and compilation.

Announced
08/02/2021


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

CERTIFICATE

Certified that this judgment of mine including this page consists of 05 (five) pages, each page 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