

IN THE COURT OF SAMI ULLAH,
Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	46/1 of 2023
Date of Original Institution:	12.06.2023
Date of transfer in	08.09.2023
Date of Decision:	19.09.2023

Tasawar Hussain S/O Sujan Ali
R/O Qoam Sepoy, Tappa Meta Khel, PO Khadizai, Tehsil Lower, District Orakzai.

.....(Plaintiff)

VERSUS

1. **Chairman Nadra, Islamabad**
2. **Assistant Director Nadra, District Orakzai.**

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that the correct name of real Mother of plaintiff is **Shehnaz Begum** and her date of birth is **01.01.1976** while defendants have incorporated the mother name of the plaintiff as Sajida in their record which is stepmother of the plaintiff. The date of birth of stepmother of the plaintiff is 1985. Due to incorporation the name of stepmother of plaintiff in record of plaintiff, there is unnatural gap of 10 year, between the age of

Lamy Ullah
19.09.2023

Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)

plaintiff with his stepmother, which is wrong and ineffective upon the right of the plaintiff and is liable to correction. That the defendants were asked time and again to incorporate the name of real mother in the record of plaintiff but they refused to do so, hence the present suit;

2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by filing their written statement, wherein various legal and factual objections were raised.
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 is time barred?*
4. *Whether Mst. Shehnaz Begum is the real mother and Mst. Sajida is the step mother of the plaintiff?*
5. *Whether the defendants have inadvertently entered the name of plaintiff in the family tree of his step mother?*
6. *Whether the plaintiff is entitled to the decree as prayed for.*
7. *Relief.*

Lawyer
Ullah
19.09.2023
Sami Ullah
Civil Judge/JM-1
Orakzai, at (Babar Mela)

4. Parties were given ample opportunity to produce evidence which they did accordingly.
5. Issue wise findings of this court are as under: -

Issue No. 02:***Whether the plaintiff is estopped to sue?***

6. 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:***Whether suit of the plaintiff is time barred?***

7. The defendants in their written statement raised the objection that suit of the plaintiff is time barred but this court is of 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 **12.06.2023**. Thus, the same is well within time. The issue is decided in positive.

Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)
19.09.2023

Issue 04 & 05:***Whether Mst. Shehnaz Begum is the real mother and Mst. Sajida is the step mother of the plaintiff?******Whether the defendants have inadvertently entered the name of plaintiff in the family tree of his step mother?***

8. Both the issued are interlinked therefore, taken together for discussions on the basis of available record on file.
9. The plaintiff alleged in his plaint that the correct real mother name of plaintiff is **Shehnaz Begum** and her date of birth is **01.01.1976** while the defendants have wrongly incorporated the same in their record as Sajida which is Step mother of plaintiff, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. Moreover, the entry of Mst. Sajida in record of the plaintiff as his mother has created unnatural gap in age between both of them, as date of birth of Mst. Sajid as 1985 and date of birth of the plaintiff is 05.04.1996.
10. The plaintiff produced one witness and he himself appeared as a witness in his favour who recorded the statements and testified that the real mother of the plaintiff is **Shehnaz Begum** while Sajida is the stepmother of the plaintiff.
11. Plaintiff himself recorded his statement as PW-1 and stated that his real mother is **Shehnaz Begum** and her date of birth is **01.01.1976** and is no more alive and has passed away on 25 January 1999. Her registered death certificate is Ex.PW-1/1. That the defendants have wrongly incorporated the mother name of the plaintiff as Sajida in their record. He further stated that the date of birth of stepmother of plaintiff is 1985 which creates unnatural gap in age of 10 years with plaintiff as my date of birth as 05.04.1996. His CNIC is Ex.PW-1/2.

Sami Ullah
19-09-2023
Sami Ullah
 Civil Judge/JM-1
 Orakzai at (Babar Mela)

12. PW-02 namely Subaid Ali said in his statement that the plaintiff is his nephew and correct real mother name of plaintiff is Shehnaz Begum and her date of birth is 01.01.1976, while defendants have wrongly incorporated the name of stepmother as his mother in the record of plaintiff. Moreover, the said PW stated in his statement that he is brother of the deceased real mother of the plaintiff namely Shehnaz Begum. He further stated the date of birth of stepmother of plaintiff is 1985 which creates unnatural gap in age of 10 years with plaintiff. Copy of his CNIC is Ex.PW-2/1.
13. In order to counter the claim of the plaintiff, the defendants produced only one witness, Mr. Irfan Hussain, the representative of the defendants appeared as DW-01. He produced family tree which is Ex. DW-1/1 and Ex. DW-1/2. According to this document the mother name of plaintiff is Sajida and relied on the available NADRA record.
14. Arguments heard and record perused.
15. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the documents and evidence which they produced. Nothing incriminating was recorded in cross examination of the PWs. Moreover, plaintiff has annexed with his plaint, Death certificate of real mother of plaintiff, which shows name, date of birth and date of her death which is in confirmation

Lami Ullah
19-09-2023
Sami Ullah
 Civil Judge/JM-I
 Orakzai (Babar Mela)

with the claim of the plaintiff. Furthermore, real brother of the deceased Mst. Shehnaz Begum recorded his statement in favour of plaintiff. Furthermore, record reveals that the name of stepmother of plaintiff is Sajida and her date of birth is 1985 and there is unnatural gap in age of 10 year of the plaintiff with his stepmother. After keeping in consideration, the aforementioned points and available evidence, this court is of the view that the record of defendants relating to real mother name of the plaintiff is liable to correction.

16. Thus, in the light of the aforesaid findings, the issues are decided in positive.

Issue No. 01 & 06:

Whether plaintiff has got cause of action?

Whether the plaintiff is entitled to the decree as prayed for.

17. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4 & 5 plaintiff has got cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

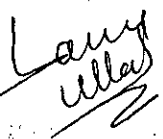
18. As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for, defendants are directed to incorporate the real mother name of plaintiff as **Shehnaz Begum** and her date of birth as **01.01.1976** instead of Sajida in their record.

Lamy Ullah
19.09.2023

Sami Ullah
Civil Judge/JM-I
Orakzai (Babar Mela)

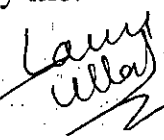
19. Parties are left to bear their own cost.
20. Decree sheet be drawn up accordingly.
21. File be consigned to the Record Room after its necessary completion and compilation.

Announced
19.09.2023


Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this judgment consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.