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

Civil Suit No. 356/1 of 2020
Date of Institution: 18/11/2020
Date of Decision: 08/06/2021

Muhammad Khalid and Waleed Khan Ss/o Khan Feroosh

Cast Malak Din Khel sub cast Umar Khan Khel, PO Bara Nala Khwar, Tehsil Barha
District Khyber (Plaintiff)

VERSUS

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

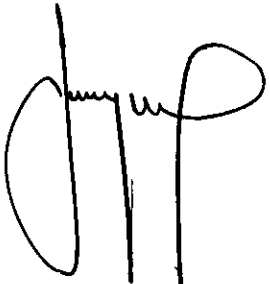
(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

08.06.2021

Brief facts of case in hand are that the plaintiffs, **Muhammad Khalid and Waleed Khan Ss/o Khan Feroosh**, have brought the instant suit for declaration, against the defendants, referred hereinabove, seeking declaration, therein, that their correct permanent address is Utman Khel Afridi Karghan, PO Feroz Khel, Aba Khel, Tehsil Lower District Orakzai while defendants have wrongly mentioned the same in their record as Section Malak Din Khel sub section Umar Khan Khel, PO Bara Nala Khwar, Tehsil Bara, District Khyber, which is incorrect and liable to be corrected. That plaintiff repeatedly asked defendants for correction of their permanent address but they refused, hence, instant suit.


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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.

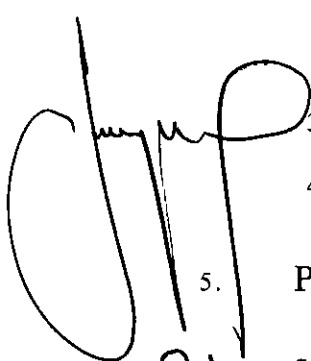
Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether plaintiff have got cause of action?
2. Whether the correct permanent address of the plaintiffs is **Utman Khel Afridi Karghan, PO Feroz Khel, Aba Khel, Tehsil Lower District Orakzai** while it has been wrongly entered as **Section Malak Din Khel sub section Umar Khan Khel, PO Bara Nala Khwar, Tehsil Bara District Khyber** in their CNICs by the defendants?
3. Whether plaintiffs are entitled to the decree as prayed for?
4. Relief.

5. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiffs produced their witnesses as PW-1 and PW-2.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing forms of plaintiff No. 1 and plaintiff No. 2 as Ex. DW-1/1 and Ex.DW-1/2 and passport copy of plaintiff No.2 as Ex. DW-1/3 and family tree of the plaintiff as Ex.Dw-1/4 and Ex.Dw-1/5.


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7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:

Issue No. 02:

Plaintiffs contended in their plaint that their correct permanent address is Utman Khel Afridi Karghan, PO Feroz Khel, Aba Khel, Tehsil Lower District Orakzai, but inadvertently it has been recorded as cast Malak Din Khel sub cast Umar Khan Khel, PO Bara Nala Khwar, Tehsil Bara District Khyber in NADRA record, hence, the record is liable to be corrected.

Plaintiff No.1 in support of his contention appeared as PW-1 and repeated the contents of plaint in his examination in chief. He produced CNICs of plaintiff No.2 and his father as Ex.PW1/1 and Ex.PW-1/2 while his own CNIC as Ex. PW-1/3. During cross examination PW-1, stated that permanent address of his father is District Khyber and domicile was also issued to him (plaintiff No.1) from District Khyber. He also stated that CNIC was issued to his mother from District Khyber and similarly passport was issued to him from District Khyber. PW-01 further stated that they are seven brothers and sisters and the permanent address of all the brothers and sisters in their CNICs is District Khyber while present address is District Orakzai. He also stated that his family belong to Malak Din Khel.

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PW-2 stated in his examination in chief that he is the relative of plaintiff and the correct permanent address of the plaintiff is Utman Khel Afridi Karghan, PO Feroz Khel, Aba Khel, Tehsil Lower District Orakzai while their permanent address has wrongly been mentioned in their CNIC as cast Malak Din Khel sub cast Umar Khan Khel, PO Bara Nala Khwar, Tehsil Bara District Khyber. During cross examination stated that the permanent address of parents of plaintiff is District Khyber while present address is District Orakzai. He also stated that domicile to Muhammad Khalid (plaintiff No.1) was issued from District Khyber.

On other hand, representative of NADRA appeared as DW-1, who stated in his examination in chief that plaintiffs belong to District Khyber. He produced the CNIC processing form of the plaintiffs as Ex. DW-1/1, Ex. DW-1/2, passport of plaintiff No. 2 Ex.DW-1/3 and family tree of plaintiffs as Ex.DW-1/4 and Ex.DW-1/5.

The analysis of available record depicts that the permanent address of plaintiffs in their CNIC processing forms Ex.DW-1/1 and Ex.DW-1/2 has been mentioned as Malak Din Khel, Umar Khan Khel, Khyber, PO Bara Nala Khwar, Tehsil Bara, District Khyber and similarly the place of birth as Bara. Both the forms have been duly signed the plaintiffs. Passport of plaintiff No. 2 Ex.DW-1/3 also manifest the address of plaintiff No. 2 as

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Khyber Agency. Similarly, in family tree of plaintiffs Ex.DW-1/4 and Ex.DW-1/5, the permanent address of plaintiffs and their parents has been recorded as Malak Din Khel, Umar Khan Khel, Khyber, PO Bara Nala Khwar, Tehsil Bara, District Khyber.

Plaintiff No. 1 appearing as PW-01 also categorically stated in his cross examination that permanent address of his parents is District Khyber. He also admitted that he obtained his passport from District Khyber and domicile was also issued to him at District Khyber. Similarly, PW-01 stated that they are seven brothers and sisters and permanent address of all the brothers and sisters in their CNICs is district Khyber while their present address is district Orakzai. So, from the facts uttered by PW-01 coupled with family tree of the plaintiffs, it is evident that plaintiffs, their parents and brothers and sisters are the permanent resident of district Khyber and similarly domicile was also issued to the plaintiff No.1 from district Khyber. Nothing was brought on the record by the plaintiffs to show that either plaintiff No. 1 has cancelled his domicile at district Khyber or plaintiffs have abandoned their permanent residence from Khyber. Being such position the contention of plaintiffs, that they are permanent resident of district Orakzai and defendants have wrongly mentioned their permanent address as

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district Khyber, is without any footing and solid reason. Hence issue is decided in negative.

Issue No.01 & 03:

For what has been held in issue No. 2, 3 this court is of the opinion that plaintiffs have got neither cause of action nor they are entitled to the decree as prayed for.

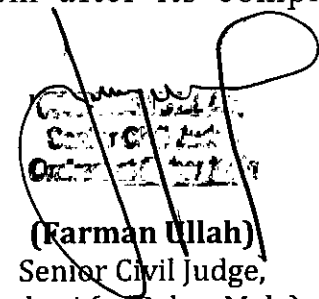
Thus, both the issues are decided in negative.

Relief:

As sequel to above discussion, it is held that plaintiffs have failed to prove their stance through cogent and confidence inspiring evidence, hence suit of plaintiffs is dismissed. No order as to cost.

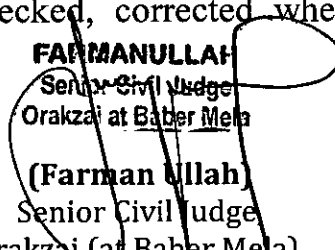
9. File be consigned to the record room after its completion and compilation.

Announced
08/06/2021


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

CERTIFICATE

Certified that this judgment of mine consists of 06 (six) pages (including this page), 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).