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IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....46/1 of 2023.

Date of Institution.....16.09.2023.

Date of Decision.....03.10.2023.

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1. Muhammad Adil
2. Muzamil Khan Ss/O
3. Mst. Taswar Bibi Wd/O Mama Jan all R/O Qaum Mishti, Tappa
Darway Khel, Endara, Tehsil Central, District Orakzai.
.....(Plaintiffs)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa, Hayatabad.
3. Assistant Director NADRA, District Orakzai.
..... (Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT

03.10.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Muhammad Adil and two others against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts as per plaint are that correct father's name of plaintiff No. 1 & plaintiff No. 2 and correct husband's name of plaintiff No. 3 is Mama Jan whereas defendants have incorrectly and wrongly entered the same in their official record as Turkistan. It is further



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averred that correct mother's name of plaintiff No. 1 and plaintiff No. 2 is Taswar Bibi (تصوار بی بی) whereas defendants have incorrectly and wrongly entered the same as Farida in their official record which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That defendants were asked time and again to do the needful but in vain, hence the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time? OPP
3. Whether correct father's name of plaintiff No. 1, plaintiff No. 2 and correct husband's name of plaintiff No. 3 is Mama Jan instead of Turkistan? OPP
4. Whether correct mother's name of plaintiff No. 1 and plaintiff No. 2 is Taswar Bibi instead of Farida? OPP
5. Whether plaintiffs are entitled to the decree as prayed for? OPP


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6. Relief.

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiffs produced three witnesses in support of their claim while defendants produced one witness in defense.

Muhammad Adil, plaintiff No. 1/special attorney of plaintiff No. 2 and 3 appeared and recorded his statement as PW-01. He reiterated the averments of plaint. Special power of attorney is Ex. PW-1/1, copy of his CNIC is Ex.PW-1/2, copy of CNIC of plaintiff No. 2 is Ex.PW-1/3 and copy of CNIC of plaintiff No.3 is Ex.PW-1/4.

Turkistan appeared and deposed as PW-02. He stated that deceased Mama Jan was his real brother and that plaintiff No. 1 and 2 are his nephews while plaintiff No. 3 is his sister-in-law. Copy of his CNIC is Ex. PW-2/1.

Naheed Khan, relative of plaintiffs appeared and deposed as PW-03. He fully supported the claim of plaintiffs. Copy of his CNIC is Ex. PW-3/1.

Thereafter, evidence of plaintiffs was closed.

Nothing contradictory could be brought on record from the statements of PWs.



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Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced Data Processing Forms of plaintiff No. 1 & 3 and copy of passport of plaintiff No. 2 which are Ex. DW-1/1 to Ex. DW-1/3 respectively. He also produced Data Processing Form of plaintiff No. 2 is Ex. PW-1/4. He stated that plaintiffs were issued CNICs as per information provided by them and that they have got no cause of action and lastly requested for dismissal of suit.

Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.


ISSUE NO.2

Plaintiffs have been issued CNICs on 30.07.2014, 28.04.2016 and 07.04.2023 with expiry dates as 30.07.2024, 28.04.2026 and 07.04.2033. Suit in hand was filed on 16.09.2023. In plethora of judgments of Apex Superior Court, every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time.

Issue No. 2 decided in positive.

ISSUE NO.3 & 4

Both these issues are interlinked, therefore, taken together for simultaneous discussion.


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Claim and contention of plaintiffs is that correct father's name of plaintiff No. 1 & plaintiff No. 2 and correct husband's name of plaintiff No. 3 is Mama Jan whereas defendants have incorrectly and wrongly entered the same in their official record as Turkistan. It is further averred that correct mother's name of plaintiff No. 1 and plaintiff No. 2 is Taswar Bibi (تصوار بی بی) whereas defendants have incorrectly and wrongly entered the same as Farida in their official record which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified.

Plaintiffs produced cogent, convincing and reliable documentary as well as oral evidence in support of their claim and contention. DW-01, in his cross examination, admitted that there is no biometric attestation before the NADRA and that the modification/correction sought by plaintiffs is possible per NADRA SOPs.

Keeping in view the above discussion, documentary as well as oral evidence available on file, issues No. 3 & 4 decided in favour of plaintiffs and against the defendants.

ISSUE NO.1 & 5.

In the light of foregoing discussion, plaintiffs have proved their stance through cogent, convincing and reliable documentary and oral evidence, therefore, They have got cause of action and are entitled



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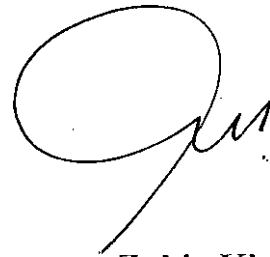
to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

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

ANNOUNCED
03.10.2023



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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
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