

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....52/1 of 2023.
Date of Institution.....02.10.2023.
Date of Decision.....23.10.2023.

Mst. Khan Bibi W/O Sharbat Khan R/O Qoum Sheikhan, Tappa
Bazid Khel, Tehsil Central, District Orakzai.

.....(Plaintiff)

Versus

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

..... (Defendants)


SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT

23.10.2023

Through this judgement, I am going to dispose of the instant
suit filed by plaintiff namely Mst. Khan Bibi against defendants
Chairman NADRA, Islamabad etc for declaration and permanent
injunction.

Brief facts in the backdrop are that plaintiff has filed the
instant suit for declaration cum-permanent injunction to the effect that
correct husband's name of plaintiff is **Sharbat Khan** whereas
defendants have incorrectly and wrongly entered the same as **Usman**
Ullah which is wrong, illegal and ineffective upon the rights of plaintiff


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and liable to be rectified. It is further averred that the said Usman Ullah is actually the niece of plaintiff. 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 plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. Whether correct husband's name of plaintiff is Sharbat Khan instead of Usman Ullah? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief.



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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 counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

During course of recording evidence, plaintiff produced four witnesses.

Bilal Ahmad/special attorney, appeared and deposed as PW-01. He reiterated the averments of plaint. He produced special power of attorney is Ex.PW-1/1, copy of CNIC of plaintiff is Ex.PW-1/2, copy of MNIC of plaintiff's husband is Ex.PW-1/3, death certificates of plaintiff's parents are Ex.PW-1/4 and Ex.PW-1/5. He lastly requested for decree of suit in favour of plaintiff.


Muhammad Rafique appeared and deposed as PW-02. He support the claim of plaintiff. Copy of his CNIC is Ex. PW-2/1.

Ajab Khan, relative of the plaintiff, appeared and deposed as PW-03. He also reiterated the averments of plaint. Copy of his CNIC is PW-3/1, copy of CNIC of his sister is Ex.PW-3/2 and copy of death certificate of Sharbat Khan is Ex.PW-3/3.

Muhammad Riaz/Son of plaintiff appeared and deposed as PW-04. He produced his matric DMC in which his father's name is mentioned as Sharbat Khan. Copy of DMC is Ex.PW-4/1.

Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced data processing form which is Ex.DW-1/1. He


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stated that plaintiff has been issued CNIC as per information provided by her and that he has got no cause of action and lastly requested for dismissal of suit. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.02:

Plaintiff has been issued CNIC on 25.02.2020 with expiry date as 25.02.2030 while suit in hand was filed on 02.10.2023. As period of limitation under Article 120 of Limitation Act for filing declaratory suit is six years, therefore, suit of plaintiff is within time. Issue No. 2 decided in positive.


ISSUE NO.03:

Claim of plaintiff is that correct husband's name of plaintiff is **Sharbat Khan** whereas defendants have incorrectly and wrongly entered the same as **Usman Ullah** which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. Plaintiff produced reliable documentary evidence in support of her claim and contention. Oral evidence produced by plaintiff is also supportive to the averments of plaintiff.

Keeping in view the above discussion, documentary as well

as oral evidence available on file, it is held that correct husband's name of plaintiff is Sharbat Khan instead of Usman Ullah. Issue decided in favor of plaintiff and against the defendants.

ISSUE NO.1 & 4.


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In the light of foregoing discussion, plaintiff has proved her stance through cogent, convincing and reliable documentary and oral evidence, therefore, she has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiff.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in her 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
23.10.2023


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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.


Zahir Khan
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