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IN THE COURT OF REHMIAT ULLAH WAZIR,

CIVIL JUDGE-I ORAKZAI AT CAMP COURT, KALAYA

Civil Suit No. 27/1 of 2021
Date of Institution: 23/02/2021
Date of Decision: 15/11/2021

Shafia Bibi W/O Gulab Ghani
(R/O Caste: Mishti, Tappa Darvi Khel, Jata Khel, P/O Shaho
Khel, Tehsil central, District Orakzai.

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai.**

Defendants

**SUIT FOR DECLARATION -CUM- PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

1. Plaintiff **Shafia Bibi W/O Gulab Ghani** has brought the instant for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that the correct name of her husband is **Gulab Ghani** while it has been wrongly mentioned as **Fazal Hadi**, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were repeatedly asked to correct the husband name of the plaintiff but they refused, hence, the instant suit.
2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

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


Issues:

1. Whether the plaintiff has got cause of action?
2. Whether suit of plaintiff is within time?
3. Whether the correct name of the plaintiff's husband is **Gulab Ghani** while the defendants have wrongly entered the same as Fazal Hadi in her CNIC?
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 03:

 The plaintiff alleged in her plaint that her correct husband's name is **Gulab Ghani** while it has been wrongly entered as Fazal Hadi in her CNIC, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of husband name of the plaintiff but they refused to do so, hence the present suit.

The plaintiff produced witnesses, in whom Saud Ur Rehman S/O Abdul Ghafar Khan, special attorney/brother of the plaintiff, appeared as PW-1, who produced his special power of attorney, his CNIC, CNIC of the plaintiff and CNIC of the wife

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of Fazal Hadi which are exhibited as Ex. PW-1/1, Ex. PW-1/2, Ex. PW-1/3 and Ex. PW-1/4 respectively and further stated that Fazal Hadi is the brother-in-law of the plaintiff. Further, Abdul Ghafar Khan, the father of the plaintiff is appeared as PW-02, who produced his CNIC which is exhibited as Ex. PW-2/1 and further fully supported the stance of the plaintiff by narrating the same story as in the plaint. Further, Inayat Ullah, the cousin of the plaintiff appeared as PW-03, who produced his CNIC which is exhibited as Ex. PW-3/1 and further fully supported the stance of the plaintiff by narrating the same story as in the plaint. All the witnesses are cross examined but nothing tangible have been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced CNIC processing detail form of the plaintiff which is Ex-DW-1/1, the form A of the plaintiff which is Ex-DW-1/2 and Nikkah Nama of the plaintiff which is Ex-DW-1/3. But during cross examination, he admitted that he does not know the fact that the plaintiff is an illiterate.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff mainly relies on her brother-in-law CNIC which is a public document and bears the presumption of

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truth unless rebutted. Also, the representative of the defendants has not objected over the aforesaid document when it was exhibited which legally results into admission on the part of the defendants. Thus, the plaintiff established her claim through cogent and reliable evidence, therefore, the issue is decided in positive.

Issue No. 02:

The defendants in their written statement raised their objection that the suit of the plaintiff is time barred but I am 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 23.02.2021. Thus, the same is well within time. The issue is decided in positive.

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Issue No. 01 & 04:

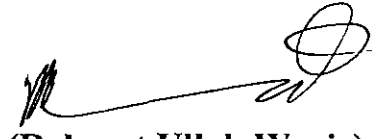
Both these issues are interlinked, hence taken together for discussion. As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

File be consigned to the Record Room after its completion and compilation.

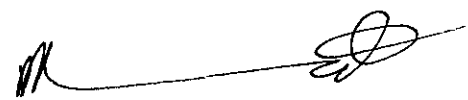
Announced
15.11.2021



(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai

CERTIFICATE

Certified that this judgment consists of five (05) pages, each has been checked, corrected where necessary and signed by me.



(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai