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IN THE COURT OF REHMAT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT CAMP COURT, KALAYA

Civil Suit No. 16/1 of 2021
Date of Institution: 29/01/2021
Date of Decision: 25/10/2021

1. Nawab Sharif S/O Ajab Khan
2. Khusal Jan W/O Ajab Khan
(Both R/O Caste: Utman Khel, Tappa Bazran Khel P/O Feroz Khel, Khulki Khel, Tehsil Lower, District Orakzai.
(Plaintiffs)

VERSUS

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

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

JUDGEMENT:

1. Plaintiffs Nawab Sharif s/o Ajab Khan and Mst: Khushal Jan w/o Ajab Khan have brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, seeking therein that correct name of father of the plaintiff no. 1 and the husband of the plaintiff no. 2 is Saeed Ullah Khan, whereas, defendants have wrongly entered the father's name of plaintiff no. and husband of plaintiff no.2 as Ajab Khan which is wrong, ineffective upon the rights of the plaintiffs and liable to correction. That actually one Ajab Khan is the paternal

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uncle of the plaintiff no. 1 and the brother-in-law of the plaintiff no. 2. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiffs have got cause of action?
2. Whether the plaintiffs are estopped to sue?
3. Whether the suit of the plaintiffs is within time?
4. Whether the correct name of father of the plaintiff no. 1 and the husband of the plaintiff no. 2 is Saeed Ullah Khan, whereas, defendants have wrongly entered the father's name of plaintiff no.1 and husband of plaintiff no.2 as Ajab Khan in their CNICs?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

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

Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiffs 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 29.01.2021.

Thus, the same is well within time. The issue is decided in positive.


Issue No. 04:

4. The plaintiffs alleged in their plaint that the correct name of father of the plaintiff no. 1 and the husband of the plaintiff no. 2 is Saeed Ullah Khan, whereas, defendants have wrongly entered the father's name of plaintiff no. and husband of plaintiff no.2 as Ajab Khan which is wrong,

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ineffective upon the rights of the plaintiffs and liable to correction. That actually one Ajab Khan is the paternal uncle of the plaintiff no. 1 and the brother-in-law of the plaintiff no. 2. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

The plaintiffs produced witnesses in whom the plaintiff no. 1 himself appeared as PW-1, who produced his CNIC, the CNIC of the plaintiff no. 2, his mother and father's CNIC, the copies of which are Ex-PW 1/1, Ex-PW-1/2 and Ex-PW-1/3 respectively, according to which the one Ajab Khan is mentioned as the father of the plaintiff no. 1 and the husband of the plaintiff no. 2 and as per Ex. PW-1/3, this is the one Saeed Ullah Khan S/O Ghani Khan, who is the father of plaintiff no.1 and the husband of the plaintiff no.2. Further the one Yousaf Khan S/o Ajab Khan, the paternal cousin of the plaintiff no. 1 appeared as PW-2, who produced his CNIC which Ex- PW-2/1, according to which the name of his father is Ajab Khan and he further narrated the same story as in the plaint. Further the one Saeed Gul, the maternal uncle of the plaintiff no. 1 and the brother of the plaintiff no.2, appeared as PW-3, who produced his CNIC which is Ex-PW-3/1 and further


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supported the stance of the plaintiffs by narrating the same story as in the plaint. These witnesses have been cross examined but nothing tangible have been extracted out of them during cross examination.

In order to counter the claim of the plaintiffs, the defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced the Detail Form of CNIC of the plaintiffs which are Ex-DW 1/1 and Ex-DW-1/2, and further fully denied the claim of the plaintiffs. But during cross examination, he admitted that he does not know whether the plaintiffs are literate or not and that he also does not know the name of the grandfather of the plaintiffs.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiffs established their case through oral and documentary evidence. Also, the son of the one Ajab Khan, who has appeared as PW-2 has also supported the stance of the plaintiffs. Further the plaintiffs are illiterate people and belong to a very backward area, thus, there is every possibility of such like mistakes. Moreover, the defendants failed to counter this claim of the plaintiffs through strong evidence and also did not revealed any reason for opposing the present

plaint. Thus, in the light of the aforesaid finding the issue is decided in positive.

Issue No. 01 &05:


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

RELIEF:

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


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

Announced
25.10.2021


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.


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