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IN THE COURT OF REHMAT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT BABER MELA

Civil Suit No. 64/1 of 2021
Date of Institution: 27.03.2021
Date of Decision: 16.03.2022

Muhammad Altaf s/o Saeed Ur Rehman R/O Qoum Rabia Khel, Tappa Afzal Khel, village Goda, Tehsil Ismael Zai, District Orakzai.

(Plaintiff)

VERSUS

1. **Board of Intermediate and Secondary Education, Kohat.**
2. **The Chairman NADRA, Islamabad.**
3. **The Director General NADRA, Peshawar.**
4. **The Director NADRA Office, Orakzai**

(Defendants)

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

JUDGEMENT:

16.03.2022

1. Plaintiff Muhammad Altaf has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that correct name of the plaintiff is Muhammad Altaf alias Haji Muhammad while the same is mentioned as Haji Muhammad in the record with the defendants, which is indecent, incorrect, wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of name of the plaintiff but they refused to do so, hence, the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement, wherein various legal and factual objections were raised.

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

Issues:


1. Whether plaintiff has got cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of plaintiff is within time?
4. Whether the correct name of the plaintiff is Muhammad Altaf but it has been wrongly mentioned in the record of the defendants as Haji Muhammad, which is actually the alias of the plaintiff?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief.

Parties were given ample 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 plaintiff is estopped to sue but later on


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failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The defendants in their written statement raised their objection that 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 **27.03.2021**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that the correct name of the plaintiff is Muhammad Altaf alias Haji Muhammad while the same is mentioned as Haji Muhammad in the record with the defendants, which is indecent, incorrect, wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of name of the plaintiff but they refused to do so, hence, the present suit;

The plaintiff produced witnesses in whom the one Parvez Khan, the paternal uncle and special attorney of the plaintiff, appeared as PW-01, who produced his own CNIC, special power of attorney, the letter of the Cadet College and Roll Number Slips, which are Ex.PW-1/1 to Ex.PW-1/4 respectively and further narrated the same story as in the plaint. He has been cross examined but nothing solid has been extracted out of him during cross examination. Further Javid Iqbal, the paternal uncle of the plaintiff appeared as PW-2, who supported the stance of the plaintiff by deposing the same facts as in the plaint. He has cross examined but he has not been contradicted during cross examination. Further, Mst. Noor Sahib Jana, the mother of the plaintiff appeared as PW-03, who fully supported the stance of the plaintiff by narrating the same story as in the plaint.

For countering the claim of the plaintiff, the defendants produced no evidence rather relied on the evidence of the plaintiff.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by all his oral witnesses including his mother, who stated in

her cross examination that the alias of the plaintiff as Haji Muhammad was out of love and affection in his childhood. Thus, the plaintiff established his case through cogent and reliable evidence and also it is the right of every person to change his name whenever he desires so. Therefore, in the light of the aforesaid findings, 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 plaintiff has 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 plaintiff is hereby decreed as prayed for with costs.

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

Announced
16.03.2022

Muhammad Altaf VS Chairman Board etc.


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