

IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	54/1 of 2023
Date of Institution:	12/10/2023
Date of Decision:	22/12/2023

Haq Nawaz S/O Jehan Shareef.

R/O Qoam Mamozai, Tappa Sepaye, Hawas Khel, Ghiljo, District Orakzai.

.....(Plaintiff)

VERSUS

1. **Chairman Nadra, Islamabad**
2. **Director General Nadra, Peshawar**
3. **Assistant Director Nadra, District Orakzai.**

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION**JUDGEMENT:**

1. Plaintiff **Haq Nawaz** has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that his correct father's name is **Jehan Shareef** but the defendants have wrongly incorporated his father's name as Imam Din. Furthermore, the correct mother's name of the plaintiff is **Wahid Bibi** but defendants have also wrongly incorporated his mother's name as Multana Bibi in their record which is wrong and ineffective upon his rights and are liable to correction. The defendants were asked time and again for correction of father's and mother's names of plaintiff but they refused to do so, hence the present suit;

L. Ullah
22.12.2023
Sami Ullah
Civil Judge/JM-I
Orakzai at (Baber Mela)

2. Defendants were summoned, they appeared before the court through their representatives 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 the plaintiff is within time?**
4. **Whether the correct father name of the plaintiff is Jehan Shareef?**
5. **Whether the correct mother name of plaintiff is Wahid Bibi?**
6. **Whether the plaintiff is entitled to the decree as prayed for?**
7. **Relief.**

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

Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiff is estopped to sue?

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

*Lauq
Ullah
12-2023*
Samir Wahid
Civil Judge/JM-1
Orakzai, at (Babar Mela)

Issue No. 03:**Whether suit of the plaintiff is within time?**

6. The defendants in their written statement raised the objection that suit of the plaintiff is time barred but 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 **12.10.2023**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04 and 05:**Whether the correct father name of the plaintiff is Jehan Shareef?****Whether the correct mother name of plaintiff is Wahid Bibi?**

7. The plaintiffs alleged in his plaint that correct father and mother name of the plaintiff is **Jehan Shareef** and **Wahid Bibi** while the defendants have wrongly entered the same as Imam Din and Multana Bibi, which is wrong, ineffective upon the rights of the plaintiff and liable to correction.
8. The plaintiff produced two witnesses and appeared himself in his favour, who recorded their statement and

Lamin Ullah
22.12.2023
Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)

testified that the correct father's and mother's names of plaintiff is **Jehan Shareef** and **Wahid Bibi**.

9. The plaintiff himself appeared as PW-1, recorded his statement that his correct father's and mother's name is **Jehan Shareef** and **Wahid Bibi**. He stated that the defendants have wrongly mentioned the same as Imam Din and Multana Bibi. He further stated that Najeeb Ur Rehman is his brother who has received decree in this regard already. Furthermore, he stated that the correct father's name **Jehan Shareef** is mentioned in death certificate of his mother. Moreover, he stated that Imam Din is his uncle and Multana Bibi is his aunt. Death Certificate of his father and mother, copy of decree of Najeeb Ur Rehman and his CNIC are Ex.PW-1/1 to Ex.PW 1/4. He recorded in his cross examination that at the time when his brother has applied for correction of his parent's name, I was working in Fateh Jang, that why I have not filed a suit for the same at that time.

Layli Ullah
22.12.2023
Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)

10. PW-02 namely Najeeb Ur Rehman recorded in his statement that plaintiff is his brother and he testified the claim and contention of the plaintiff. He also stated that his correct father's and mother's name is **Jehan Shareef** and **Wahid Bibi**. His CNIC is Ex.PW-2/1. He also testified that at the time he had filed a suit on the subject, his brother was working in Fateh Jang.

11. PW-03 namely Alim Din recorded in his statement that plaintiff is his cousin, **Jehan Shareef** is his uncle and **Wahid Bibi** is his aunt and lastly, he prayed for correction of parent's name of plaintiff. His CNIC is Ex.PW-3/1. It is pertinent to mention here that the said PW, is the son of the person whose name has been entered as father of the plaintiff in the Nadra Record.
12. In order to counter the claim of the plaintiff, the defendants produced only one witness, Mr. Irfan Hussain, the representative of the defendants appeared as DW-1. He produced Alfa family tree, Beta Family Tree and processing form of plaintiff which are Ex. DW-1/1 to 1/3. According to these documents, plaintiff's father and mother name is Imam Din and Multana Bibi. DW-01 in his cross examination admitted that according to Ex.DW-1/1, the correct husband name of Wahid Bibi is **Jehan Shareef** and also admitted that the correct father name of the plaintiff mentioned in the CNIC of his brother namely Najeeb Ur Rehman. He further admitted that prior to institution of this case, this court has also passed a decreed on dated: 22.06.2023 in favour of his brother namely Najeeb Ur Rehman which is Exhibited is Ex.PW-1/4. It is correct that according to the SOPs of Nadra the correction of the names of the parents are possible subject

Lauji Ullah
22.12.2023
Sami Ullah
Civil Judge/JM-1
Orakzai at (Babar Mela)

to the condition that one of the family members will do verification of the applicant.

13. Arguments heard and record perused.
14. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the evidence which he produced. PW-03 who testified in favour of the plaintiff, stated in his examination that the plaintiff is not his brother rather he is his cousin. It is pertinent to mention here that according to the SOPs of Nadra, verification is needed from one person amongst family members in whose family tree, the plaintiff wants to insert his name but since the family of his brother namely Najeeb Ur Rehman is not properly maintained by Nadra and he is still in old family tree with corrected parents name, therefore, the evidence of two members of the present family tree is reliable evidence and reliance is placed on their statements.

Law
Ullah
22.12.2023
Sami Ullah
Civil Judge/JM-I
Orakzai (Babar Meja)

15. Thus, in the light of the aforesaid findings, the issues are decided in positive and this court is of the opinion that the correct fathers and mothers of the plaintiff is **Jehan Shareef and Wahid Bibi.**

Issue No. 01 & 06:

Whether plaintiff has got cause of action?


Whether the plaintiff is entitled to the decree as prayed for.

16. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4 and 5 the plaintiff has got cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

17. As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for, defendants are directed to correct the father's and mother's name of the plaintiff as **Jehan Shareef** and **Wahid Bibi** in their record.
18. Parties are left to bear their own cost.
19. Decree sheet be drawn up accordingly.
20. File be consigned to the Record Room after its necessary completion and compilation.

Announced
22.12.2023


Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this judgment of mine consists of Seven (07) pages, each has been checked, corrected where necessary and signed by me.


Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.