

(27)

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 43/1 of 2023.
Date of Institution: 01.11.2023.
Date of Decision: 22.12.2023.

*Mairaj Bibi D/O Ali Asghar, R/O Qaum Ali Khel, Tappa Jasrat Khel,
Kago Kamar, Ganditall, Tehsil Upper, District Orakzai.*
(Plaintiff)

VERSUS

1. *Chairman NADRA, Islamabad.*
2. *Registrar General, NADRA, Islamabad.*
3. *District Officer NADRA, Orakzai.*

(Defendants)

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

JUDGEMENT:

22.12.2023

1. Plaintiff Mairaj Bibi D/O Ali Asghar has brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that correct name of her father is Ali Asghar, while the same has been wrongly entered in her record with the defendants as Muhammad Afzal. She prayed for correction of her parentage in her record with the defendants.

She alleged that the defendants were asked time and again to do the needful, but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by

filings authority letter and 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 the suit of the plaintiff is within time?*
3. *Whether the correct name of father of the plaintiff is Ali Asghar while it has been wrongly entered in her record with the defendants as Muhammad Afzal?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

4. **PW-01:** Mairaj Bibi; plaintiff herself appeared as PW-01 and repeated the contents of her plaint. He requested for decree of suit as prayed for. She produced the following documents.

1. Ex. PW-1/1 & Ex. PW-1/2: Copies of death certificates of her parents.
2. Ex. PW-1/3: Copy of her CNIC.
3. Ex. PW-1/4: Copy of CNIC of her father.

5. **PW-02:** is the statement of the Ahmad Jan. He is husband of the plaintiff. He supported the stance of the plaintiff. Copy of his CNIC is Ex.PW-2/1.

6. **PW-03:** is the statement of the Shera Bibi. She is relative of the plaintiff. She also supported the stance of the plaintiff. Copy of her CNIC is Ex.PW-3/1.

7. On the other hand, representative for NADRA, Irfan Hussain

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recorded his statement as DW-01. He produced family tree which is Ex. DW-1/1. He requested for dismissal of the suit.

After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff has alleged the entry of wrong parentage in her record with the defendants which has not yet been rectified as alleged in the plaint. The said wrong entry is continuous cause of action to the plaintiff, therefore, she has rightly filed the instant suit on 01.11.2023 and the same is within time. Issued decided in positive.

Issue No. 03:

Plaintiff has alleged in her plaint that correct name of her father is Ali Asghar, while the same has been wrongly entered in her record with the defendants as Muhammad Afzal.

During the course of evidence, the plaintiff appeared as PW-01 and confirmed the contents of her plaint during her statement and requested for correction as prayed for in the plaint. She stated during her statement as PW-01 that she has been married to one Ahmad Jan who is son of his uncle Muhammad Afzal, but at the time of preparation of her CNIC, her parents were already dead and instead of her correct parentage, her cousin namely Khial Afzal has entered his own

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parentage against the name of the plaintiff which has now created problems for the plaintiff and without rectification of such wrong entry, their names cannot be entered as spouses against each other in their record with the defendants because Ahmad Jan husband of the plaintiff is the real son of Muhammad Afzal. According to NADRA record, plaintiff and her husband Ahmad Jan are shown as brother and sister which needs rectification. This fact is affirmed by PW-02 Ahmad Jan, and PW-03 Mst. Shera Bibi being offsprings of Muhammad Afzal. The mother name of the plaintiff is shown in the defendant's record is Mst. Khanzeba Bibi which is confirmed by PW-02 and PW-03 also in their statements. There is nothing more authentic to rebut the statement of the plaintiff as PW-01 and the statement of PW-02 her husband Ahmad Jan and that of Mst. Shera Bibi as PW-03, relating to the fact that plaintiff and PW-02 are husband and wife. Now, after establishing the said fact, it is mandatory for the defendants to make rectification of parentage of the plaintiff in her record with them.

Issue is decided in favour of plaintiff accordingly.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for simultaneous discussion.

As sequel to my findings on issue No. 03, the plaintiff has proved through cogent evidence that correct name of her father

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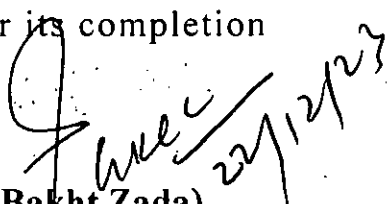
is Ali Asghar instead of Muhammad Afzal. Issue No. 01 & 04 are decided in positive.

RELIEF:

As sequel to my above issue-wise findings, the plaintiff proved her case through cogent evidence, therefore suit of the plaintiff is hereby decreed as prayed for with no order as to cost.

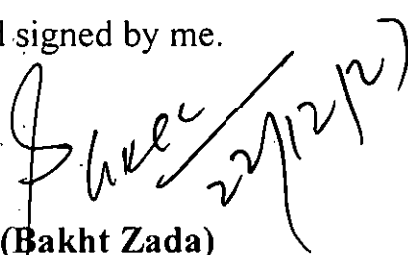
File be consigned to the Record Room after its completion and compilation.

Announced
22.12.2023


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CERTIFICATE

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


(Bakht Zada)
Senior Civil Judge,
Orakzai at (Baber Mela)