

(Signature)

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 352/1 of 2020
Date of Institution: 13/11/2020
Date of Decision: 01/02/2022

Shazma Bibi d/o Muzafar Khan
Ibrahim Khel, Kot Kally, Ghiljo District Orakzai.....
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**
(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

01.02.2022

Brief facts of case in hand are that the plaintiff, **Shazma Bibi d/o Muzafar Khan** has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that her correct name is "**Shazma Bibi**" and correct name of her father is "**Muzafar Khan**" which have been correctly recorded in her domicile while defendants have wrongly mentioned her name as "**Hijran Bibi**" and her father name as "**Yaqoob Shah**" in their record, which is incorrect and liable to be corrected. That defendants were repeatedly asked to correct the name of plaintiff as well as her father name but they refused, hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written

(Signature)
FARMAN ULLAH
Senior Civil Judge
Orakzai at Baber Mel
01.02.2022

66

statement, wherein, they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct name of father of the plaintiff is **Muzafar Khan** while it has been wrongly entered as **Yaqoob Shah** in her CNIC by defendants?
3. Whether the correct name of plaintiff is "**Shazma Bibi**" whereas defendants have wrongly recorded the same in their record as "**Hijran Bibi**"?
4. Whether plaintiff is entitled to the decree as prayed for?
Relief?

Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced her witnesses as PW-1 to PW-3.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the Detail processing form and family trees of the plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.
7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. In the light of available record and arguments of learned counsel for the parties, my issue wise discussion is as under:

Issue No. 2 & 3

FARHAT ABBAS
Senior Civil Judge
Orakzai at Bakhar
01.02.22

66 67

Both the issues are interlinked and interconnected, hence to avoid the repetition of facts, both the issues are taken together for discussion.

Plaintiff contended in her plaint that her correct name is “**Shazma Bibi**” and correct name of her father is “**Muzafar Khan**” which has been correctly recorded in her domicile but defendants have erroneously recorded her name as “**Hijran Bibi**” and her father name as “**Yaqoob Shah**” in CNIC of plaintiff. Hence, the record is liable to be corrected.

Plaintiff in support of her contention produced Rayat Gul as PW-01, who stated in his examination in chief that plaintiff is his relative and neighbour, whose correct name is Shazma Bibi while her father correct name is Muzafar Khan and the same has been correctly recorded in her domicile certificate. He also produced domicile of plaintiff and CNIC of Yaqoob Shah and Muzafar Khan as Ex.PW-1/1 to Ex.PW-1/4. During cross examination stated that the mother name of plaintiff is Zarmeena. Attorney for the plaintiff appeared as PW-2, who repeated the contents of plaint in his examination in chief. During the cross examination stated that Hijran Bibi is his sister and he himself is the son of Yaqoob Shah while PW-03 is the statement of Record Keeper of domicile branch and he produced the record of domicile of plaintiff as Ex.PW-3/1.

On other hand, representative for defendants recorded his statement as DW-I, wherein, he produced the CNIC Processing


FAROOQ ALI
Senior Civil Judge
Orakzai at Baber Mela
01.2.22

168

Form, Family Tree of Yaqoob Shah and Muzafar Khan as Ex. DW-1/1 to Ex.DW-1/3.

From the perusal of Ex.DW-1/1 and Ex. DW-1/2 it is evident that name of plaintiff has been recorded as Hijran Bibi while her parents names as Yaqoob Shah and Zarmeena respectively. Family Tree Ex.DW-1/2 further reflects that Zareen Shah, Zarbali Shah, Sabra Bibi, and Speen are sons and daughters of Yaqoob Shah and their mother name is Zarmeena, while Hijran Bibi has also been recorded as the daughter of Yaqoob Shah and her mother name as Zarmeena. Plaintiff through instant suit has challenged NADRA record to the extent of her name and her father name only while she has not challenged her mother name recorded as Zarmeena in the NADRA record, which impliedly suggests that plaintiff admit the incorporation of her mother name as Zarmeena in NADRA record as correct. Even PW-01 also stated during cross examination that the mother name of plaintiff is Zarmeena. As from record, it is an established fact that Zareen Shah, Zarbali Shah, Sabra Bibi and Speen are sons and daughters of Zarmeena and Yaqoob Shah. Similarly, plaintiff is the daughter of Zarmeena. Meaning thereby, that Zareen Shah, Zarbali Shah, Sabra Bibi, Speen and plaintiff are brothers and sisters interse. Though PW-01 stated that Yaqoob Shah is the maternal uncle of plaintiff yet such facts uttered by him is not supported by available record rather the available record negates such facts

FARMOUS LAH
Senior Civil Judge
Orakzai at Baber Mera
01.02.22

68 169

for the reason that if plaintiff is the niece of Yaqoob Shah then her mother (Zarmeena) becomes the sister of Yaqoob Shah. So, the facts uttered by PW-01 regarding the relationship of plaintiff with Yaqoob Shah as niece and maternal uncle are contrary to the natural course of events. Moreover, PW-02, who is the attorney for plaintiff and son of Yaqoob Shah stated that Hijran Bibi (Plaintiff) is his sister, which also negates the entire claim of plaintiff. Furthermore, plaintiff is claiming to be the daughter of Muzafar Khan and through instant suit she desires to change her father name, her own name and even her caste as Yaqoob Shah belongs to caste Ali Khel while Muzafar Khan to caste Sheikhan but she failed to produce any family member of Muzafar Khan or any one from Sheikhan caste as witness.

So, it is held plaintiff could not produced cogent evidence in support of her claim, hence both the issues are decided in negative.

Issue No. 01 & 4:

In the light of discussion on issue No. 2 and 3, plaintiff has got neither any cause of action to file instant suit nor she is entitled to a decree as prayed for. Hence, both the issues are decided in negative.

Relief:

169 70

As sequel to above discussion, it is held that plaintiff failed to prove her stance through cogent, reliable and confidence inspiring evidence. Hence, the suit of plaintiff is dismissed. No order as to costs.

9. File be consigned to the record room after its completion and compilation.

Announced

01/02/2022


Senior Civil Judge,
Orakzai (at Baber Mela).

CERTIFICATE

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


Senior Civil Judge,
Orakzai (at Baber Mela).