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IN THE COURT OF SHAUKAT AHMAD KHAN
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 4/13 OF 2022
DATE OF INSTITUTION : 12.05.2022
DATE OF DECISION : 18.05.2022

CHAIRMAN NADRA THROUGH SYSTEM ENGINEER
DISTRICT ORAKZAI

.....(APPELLANT)

-VERSUS-

1. IZAT KHAN S/O MEEN HAIDER
 2. ABDUL QADIR S/O MEEN HAIDER
 3. MUHAMMAD ZALIB S/O MEEN HAIDER
 4. ABDUL AZIZ S/O MEEN HAIDER
 5. MST. MULTANA D/O MEEN HAIDER
 6. MST. YASMIN D/O MEEN HAIDER
 7. MST. TUTYA GULA D/O MEEN HAIDER
 8. KHIALWAR JAAN S/O MEEN HAIDER
 9. BIBI MALYA MEENA D/O MEEN HAIDER
 10. SULTAN BEGUM W/O MEEN HAIDER
- ALL RESIDENTS OF CASTE ALI KHEL, UPPER ORAKZAI,
DISTRICT ORAKZAI

.... (RESPONDENTS)

Present: Syed Farhat Abbas, representative of appellant.
: Sana Ullah Khan Advocate for respondents.

JUDGEMENT

18.05.2022

Impugned herein is the judgment/decreed dated 13.04.2022 of learned Senior Civil Judge, Orakzai passed in civil suit no. 64/1 dated: 30.10.2021 decided on 13.04.2022 vide which decree has been passed in favour of plaintiffs/respondents.

- (2). In a suit before the trial court, the plaintiffs/respondents claimed that plaintiffs/respondents no. 01 to 05 and plaintiffs/respondents no. 07 to 10 are the issues of deceased Meen Haider from Mst. Sultan Begum (second

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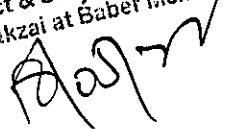
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wife) and Mst. Kimya Gulla (first wife) respectively while plaintiff/respondent no. 06 is the widow of Meen Haider, that defendants/appellants in their record have incorrectly incorporated the name of father of plaintiffs/respondents no. 01 to 05 and name of husband of plaintiff/respondent no. 06 as Yar Akbar instead of Meen Haider while the name of father of plaintiffs/respondents no. 07 to 10 has been incorporated as Mir Haider/Gul Haider instead of Meen Haider.

The defendants/appellants were summoned who attended the court and contested the suit on various legal and factual grounds. Pleadings of the parties were culminated into following issues;

1. Whether plaintiffs have got cause of actions?
2. Whether the correct name of the father of plaintiff no. 1 to 5 and husband of plaintiff no. 06 is Meen Haider while it has been wrongly mentioned by the defendants as Yar Akbar in their record?
3. Whether the correct name of father of plaintiffs no. 07 to 10 is Meen Haider while defendants have wrongly entered as Mir Haider in their record?
4. Whether the correct name of mother of plaintiffs no. 01 to 05 in Sultan Begum and of plaintiffs no. 07 to 10 is Kimya Gulla?

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5. Whether plaintiffs are entitled to the decree as prayed for?

6. Relief.


Parties were given opportunities to produce pro and contra evidence. Accordingly, plaintiffs/respondents produced and examined Izat Khan, the attorney for plaintiffs/respondents as PW-1, Yar Akbar as PW-2 and Khyal Haider as PW-3 and the case was fixed for evidence of defendants/appellants; however, the defendants/appellants failed to attend the court on date fixed, therefore, they were proceeded ex-parte. The learned trial court heard arguments and passed a decree in favour of plaintiffs/respondents.

Defendants/appellants being aggrieved of the impugned judgment and decree filed the instant appeal.

- (3). I heard arguments heard and record perused.
- (4). It is evident from the record that as the defendants/appellants have attended the court they have also submitted written statement and contested the suit on various factual grounds and the witness of the plaintiffs/respondents have also been cross examined; therefore, in the course of evidence, the absence of the defendants/appellants from proceedings of the court on a single date cannot be termed as a wilful absence. Moreover, it is a well settled principle of law

that cases should be decided on merits avoiding technicalities.

Furthermore, the issue involved in the instant case is of



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technical nature involving family trees of the plaintiffs/respondents and in these circumstances giving opportunity to the defendants/appellants to bring on file the relevant record would be more helpful to the court to arrive at the just conclusion of the case.

- (5). Hence, in view of what is discussed above, the impugned judgment/decreed of the learned trial court dated 13.04.2022 is set aside. The case is remanded back to the learned trial court to provide a single opportunity to the defendants/appellants to produce their evidence and thereafter decide the case on the basis of merits. Parties are directed to appear before the learned trial court on date 26.05.2022. Record be returned forthwith with copy of this judgment while file of this court be consigned to record room.

Pronounced
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CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 18.05.2022


(SHAUKAT AHMAD KHAN)
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