

85 22

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

Civil Suit No. 64/1(neem) of 2021
Date of Original Institution: 30.10.2021
Date of Remand Back: 18.05.2022
Date of Decision: 27.05.2022

1. Izat Khan
2. Abdul Qadir
3. Muhammad Zaleeb
4. Abdul Aziz
Sons of Meen Haider
5. Multana
6. Yasmin Bibi
7. Totia Gula
8. Khyal War Jan
9. Bibi Maliya Meena
Daughters of Meen Haider
10. Sultan Begum w/o Meen Haider

(Plaintiffs)

VERSUS

1. Chairman NADRA, Islamabad, Pakistan.
2. Director General NADRA, KPK, Peshawar.
3. Assistant Director, NADRA, District Orakzai.

(Defendants)

SUIT FOR DECLARATION -CUM- PERPETUAL AND
MANDATORY INJUNCTION

JUDGEMENT:

1. Plaintiffs Izat Khan and others have brought the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants to the effect that the correct name of the father of the plaintiffs no. 01 to 09 and the husband of the plaintiff no. 10 is Meen Haider while it has been wrongly mentioned as Yar Akbar in the column of father of some of the

REHMAT ULLAH WAZIR
Senior Civil Judge, M.A.
Orakzai at Baber Mela

86

plaintiffs and Gul Haider in the record of the rest of the plaintiffs, which is wrong and ineffective upon the rights of the plaintiffs and is liable to correction. That the defendants were asked time and again for correction of father's name of the plaintiffs but they refused to do so, hence the present suit;

2. The case is remanded back to the undersigned by the worthy District & Sessions Judge, Orakzai vide judgment, Dated: 18.05.2022 upon the appeal of the defendants for recording DW statement.

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

Issues:

1. *Whether the plaintiffs have got cause of action?*
2. *Whether the correct name of the father of the plaintiffs no. 01 to 05 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 the father of the plaintiffs no. 07 to 10 is Meen Haider while defendants have wrongly entered as Meer Haider in their record?*
4. *Whether the correct name of the mother of the plaintiffs no. 01 to 05 is Sultan Begum and of the plaintiffs no. 07 to 10 is Kimya Gulla?*
5. *Whether plaintiffs are entitled to the decree as prayed for?*
6. *Relief?*

Parties were given an opportunity to produce evidence, which they did accordingly.

REHMAT ULLAH WAZIR
Senior Civil Judge/JM
Orakzai at Baber Mela

878
JK

Issue wise findings of this court are as under: -

Issue No. 02 & 03:

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

The plaintiffs alleged in their plaint the correct name of the father of the plaintiffs no. 01 to 09 and the husband of the plaintiff no. 10 is Meen Haider while it has been wrongly mentioned as Yar Akbar in the column of father of some of the plaintiffs and Gul Haider in the record of the rest of the plaintiffs, which is wrong and ineffective upon the rights of the plaintiffs and is liable to correction. That the defendants were asked time and again for correction of father's name of the plaintiffs but they refused to do so, hence the present suit;

Plaintiffs in support of their contention, produced witnesses in whom plaintiff No. 01 appeared as PW-01 and stated that he is the special attorney for plaintiffs no. 02 to 10 and produced his special power of attorney which is Ex.PW-1/1. Further that the correct name of his father is Meen Haider and he got 02 marriages. That the name of first wife of his father is Kimya Gulla and she has a son namely Abdul Aziz and 03 daughters namely Mst. Totia Gula, Mst. Khyal War Jan and Mst. Bibi Maliya Meena while the second wife of his father namely Sultan Begum is his real mother who has 03 sons and 02 daughters namely Izat Khan, Abdul Qadir, Muhammad

M
EHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela

38

Zaleeb, Multana and Yasmin Bibi. That the defendants have wrongly mentioned the name of his paternal cousin namely Yar Akbar as the father of the plaintiffs no. 01 to 05 and the husband of plaintiff no. 06. The father's name of the plaintiffs no. 07 namely Abdul Aziz is wrongly mentioned as Gul Haider in the record of the defendants who is actually the paternal uncle of plaintiff no. 07 and exhibited his CNIC as Ex.PW-1/2. Further, Yar Akbar appeared as PW-02 who also supported the stance of the plaintiffs by narrating the same story as narrated by the PW-01 and exhibited his CNIC as Ex.PW-2/1. Further, Khyal Haider appeared as PW-03 who also supported the stance of the plaintiffs and exhibited his CNIC as Ex.PW-3/1.

The defendants produced only one witness, the representative of the defendants namely Syed Farhat Abbas appeared as DW-01, who produced the Family Tree of the plaintiffs which is Ex.DW-1/1 and further fully denied the claim of the plaintiffs.

Arguments heard and record perused.

After hearing of arguments and perusal of record, I am of the opinion that the plaintiffs established their claim through oral evidence. Also, the DW has admitted in his cross-examination that due to illiteracy, the plaintiffs have done

REHMAT ALLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baher

87

wrong entries; therefore, both these issues are decided in positive.

Issue No. 04:

This issue has neither been pressed nor proved by the plaintiffs, hence, left redundant and disposed off accordingly.

Issue No. 01 & 05:

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


As sequel to my findings on issue No. 2, the plaintiffs have 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 plaintiffs is hereby decreed as prayed for with no order as to costs.

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


Announced
27.05.2022


REHMAT ULLAH WAZIR
(Rehmat Ullah Wazir, Judge/JM,
Senior Civil Judge,
Orakzai at Baber Mela)

90
R

CERTIFICATE

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


(Rehmat Ullah Wazir)
Senior Civil Judge/JM,
Orakzai (at Baber Mela)