

IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No. 60/1 of 2023
 Date of Institution: 22/11/2023
 Date of Decision: 23/02/2024

Muhammad Jalal S/O Pir Badshah.
 R/O Qoam Mamozai, Tappa Meer Kalam Khel, District Orakzai.

.....(Plaintiff)

VERSUS

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

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff **Muhammad Jalal** has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that his correct father's name is **Pir Badshah** but the defendants have wrongly incorporated his father's name as Noor Shah in their record whereas Noor Shah is his uncle. Furthermore, the correct mother's name of the plaintiff is **Meena Wro** but defendants have also wrongly incorporated his mother's name as Shinaka bibi in their record whereas she is his aunt, which is wrong and ineffective upon his rights and are liable to correction. The defendants were asked time and again to correct the father's and mother's names of plaintiff but they refused to do so, hence the present suit;

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2. Defendants were summoned, they appeared before the court through their legal 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 bad in its present form?
4. Whether the correct father name of the plaintiff is Pir Badshah?
5. Whether the correct mother name of plaintiff is Meena Wro?
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.
5. Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiff is estopped to sue?

6. 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.

Issue No. 03:

Whether the present suit is bad in its present form?

7. This issue was framed from preliminary objections raised by

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the defendants in their written statement. Burden of proof of this issue was laid on defendants. However, defendants have not produced any oral or documentary evidence to prove that the instant suit is not maintainable being bad in its present form. Even during course of arguments learned counsel for the defendants failed to pinpoint any irregularity in the present form of the suit, therefore, it is held that the form of suit is not bad. Therefore, it is maintainable in its present form. Issue is decided in negative and in favour of plaintiff against the defendants.

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Issue No. 04 and 05:

Whether the correct father name of the plaintiff is Pir Badshah?

Whether the correct mother name of plaintiff is Meena Wro?

8. The plaintiff alleged in his plaint that correct father and mother name of the plaintiff is **Pir Badshah** and **Meena Wro** while the defendants have wrongly entered the same as Noor Shah and Shinaka bibi, which are wrong, ineffective upon the rights of the plaintiff and liable to correction.
9. The plaintiff produced two witnesses and appeared himself in his favour, who recorded their statement and testified that the correct father's and mother's name of plaintiff is **Pir Badshah** and **Meena Wro**.
10. The plaintiff himself appeared as PW-1, recorded his statement that his correct father's and mother's name are **Pir Badshah**

and **Meena Wro**. He stated that his correct father's name is mentioned in the CNIC of his mother. He further stated that the correct father name i.e. **Pir Badshah** is mentioned in the CNIC of his older brother namely **Sher Badshah**. That defendants have wrongly mentioned the same as **Noor Shah** and **Shinaka bibi** in their record with respect to the plaintiff. Whereas in reality **Noor Shah** and **Shinaka bibi** are the Uncle and aunt of the plaintiff. Copy of his CNIC is Ex.PW-1/1. He recorded in his cross examination that he took the CNIC of **Noor Shah** to **Nadra Office** at the time of making his CNIC. He further stated that his father namely **Pir Badshah** is alive.

11. PW-02 namely **Sher Badshah** recorded in his statement that plaintiff is his younger brother and he testified the claim and contention of the plaintiff. He stated that correct father's and mother's name i.e. **Pir Badshah** and **Meena Wro** is correctly mentioned in his CNIC while the parents name of the plaintiff is wrongly mentioned in his CNIC. His CNIC is Ex.PW-2/1. He further stated that the names mentioned in CNIC of the plaintiff is his parents are actually his uncle and aunt. He recorded in his cross examination that they are three brothers and the plaintiff is his step-brother.

12. PW-03 namely **Shaheen Khan** recorded in his statement that plaintiff is his cousin and correct father's and mother's name of plaintiff are **Pir Badshah** and **Meena Wro**, while defendants have wrongly mentioned the parents name of the

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plaintiff as Noor Shah and Shinaka bibi. He further stated that Noor Shah and Shinaka bibi is his parents and not that of the plaintiff. Lastly, he prayed for correction of parent's name of plaintiff. His CNIC is Ex.PW-3/1.

13. 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 family tree of plaintiff which is Ex. DW-1/1. According to this document, plaintiff's father and mother name are Noor Shah and Shinaka bibi. DW-01 in his cross examination admitted that the correct father name of the plaintiff (Pir Badshah) is mentioned in the CNIC of his Mother namely Meena Wro.

14. Arguments heard and record perused.

15. 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. The plaintiff produced a witness i.e. PW-2 from the family tree in which he wants to enter his name through this declaratory suit. Similarly, the plaintiff produced a witness i.e. PW-03 from the family tree which he alleges to be wrong as for as his entry in the same is concerned. Both the witnesses testified in favour of the plaintiff. Moreover, PW-02 recorded in his statement that the plaintiff is his brother and according to the entries in CNIC of PW-02 his father name is correctly mentioned there. Moreover,

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as per entry in CNIC of mother of the plaintiff i.e. Meena Wro, her husband name is Pir Badshah.

16. Thus, in the light of the aforesaid findings, the issues are decided in positive and this court is of the opinion that the correct father's and mother's name of the plaintiff is **Pir Badshah** and **Meena Wro**.

Issue No. 01 &06:

Whether plaintiff has got cause of action?

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

17. 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:


18. 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 **Pir Badshah** and **Meena Wro** in their record.

19. Parties are left to bear their own cost.

20. Decree sheet be drawn up accordingly.

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

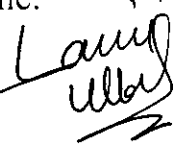
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CERTIFICATE

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


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