

IN THE COURT OF SHABEER AHMAD,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 109/1 of 2022
Date of Original Institution: 01.08.2022
Date of Decision: 15.09.2022

Muhammad Amin son of Kemya Gul, resident of Qaum Stori Khel, Tapa Mala Khel, PO Tazi Khel, Miagano Kallay, Tehsil Lower, District: Orakzai.

.....(Plaintiff)

VERSUS

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

.....(Defendants)

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

JUDGMENT

1. Brief facts of the case in hand are that the plaintiff Muhammad Amin has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct father name of the plaintiff is **Kemya Gul** and mother name is **Nek Marjan** while it has been wrongly entered as Taza Gul and Ghunda in the record of the defendants, which are wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

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2. Defendants were summoned, they appeared through their representative and submitted authority letter and written statement.
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 plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is within time?
4. Whether the correct father name of the plaintiff is **Kemya Gul** and correct mother name is **Nek Marjan**, where defendants have entered the father name of the plaintiff is Taza Gul and mother name as Ghunda in his CNIC?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?


Issue wise findings of this court are as under: -

Issue No. 02:

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:

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the


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institution of such like suits. The defendants have issued the CNIC on 26.06.2018, hence, the suit is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that the correct father name is **Kemya Gul** and mother name is **Nek Marjan**, whereas, defendants have wrongly entered the same as Taza Gul and Ghunda.

The plaintiff produced witnesses in whom Muhammad Amin, the plaintiff himself, appeared as PW-01, who produced his CNIC and his mother CNIC which are exhibited as Ex. PW-1/1 and Ex. PW-1/2 respectively.

He stated that his correct father name is **Kemya Gul** and mother name is **Nek Marjan**. Further stated that he has three brothers and three sisters. He lastly prayed for the decree of the suit. During cross examination he stated that the one Taza Gul is his relative and since his father was not available, son of Taza Gul went with him to NADRA Office for Form verification, therefore, Taza Gul has been entered as his father in the CNIC.

Mr. Kemya Gul, the father of the plaintiff, appeared as PW-02. He produced his CNIC which is exhibited as Ex. PW-2/1 and further stated that the plaintiff is his real son. He has four sons and three daughters. During

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cross examination he stated that he has no objection if the plaintiff is entered into his family.

In order to counter the claim of the plaintiff, the defendants produced only one witness, the representative of the defendants who appeared as DW-1. But during cross examination, he admitted that if the plaintiff want to change his family, he can change the same according to our SOP. The father and blood relative shall be a witness of that and do biometric.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff has produced reliable witnesses and as the representative of the defendants stated if the plaintiff want to change his family, he can change the same according to our SOP. The father and blood relative shall be a witness of that and do biometric. Thus, the plaintiff established his claim, therefore, the issue is decided in positive.

Issue No. 01 &02:

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

As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

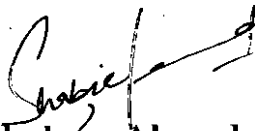
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RELIEF:

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 name as **Kemya Gul** and mother name as **Nek Marjan** of the plaintiff.

File be consigned to the District Record Room, Orakzai after its necessary completion and compilation.

Announced
15.09.2022

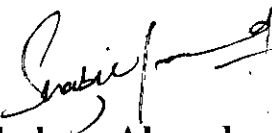


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CERTIFICATE

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



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Tehsil Court, Kalaya, Orakzai