

IN THE COURT OF SAMI ULLAH,
Civil Judge-I, Orakzai at Baber Mela

Suit No.....20/1Dr.Neem of 2021.

Date of Institution..... 27/01/2021.

Date of decision.....01/11/2022.

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Naib Khan S/O Ajad Gul R/O Qoam Feroz Khel, Tappa Qemath
Khel P.O Feroz Khel, Shna Naka, Tehsil Lower, District Orakzai,
..... (Plaintiff)

Versus

Board of Intermediate and Secondary Education, Kohat.
..... (Defendant)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff Naib Khan has brought the instant suit for declaration-cum-permanent injunction against defendant; Chairman, Board of Intermediate & Secondary Education, Kohat seeking therein that his correct father's name is **Ajad Gul** but the defendant has wrongly incorporated his father's name as **Ajab Gul** in their record which is wrong and ineffective upon his rights and are liable to correction. The defendant was asked time and again for correction of father's name of plaintiff but they refused to do so, hence the present suit;
2. Defendant was summoned. Defendant appeared before the court through his legal advisor and contested the suit by filing their written statement, afterwards the legal advisor for defendant remained absent and the case was proceeded ex-parte but upon the application of the learned legal advisor the ex-parte decree was set

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aside and the case file was restored. The PWs were then cross examined by the learned legal advisor and the case was fixed for final order.

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

Issues:

1. Whether the plaintiff has got any cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of the plaintiff is within time?
4. Whether the correct name of the father of plaintiff is **Ajad Gul** and has wrongly been mentioned in the record of the defendant as **Ajab Gul**?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief.

4. Parties were directed to produce evidence of their own choice, which they did. Plaintiff examined three (03) witnesses, while the defendant produced one witnesses.

5. Plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. He produced his CNIC, Detail Marks Certificate and CNIC of his father. Photocopies of which are Ex.PW 1/1, Ex.PW 1/2 and Ex. PW 1/3.

6. Khalil Khan S/O Mestri Khan, relative of the plaintiff appeared and deposed as PW-02. Photocopy of his CNIC is Ex.PW 2/1. He supported the claim of plaintiff and testified that the correct father's name of the plaintiff is Ajad Gul instead of Ajab Gul.

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7. Saif Ullah S/O Malip Shah, relative of the plaintiff appeared and deposed as PW-3. Photocopy of his CNIC is Ex.PW 3/1. He also supported the stance of the plaintiff.
8. Legal advisor for defendant appeared as DW-1 and stated in his statement that he places his reliance on the DMC issued to the plaintiff and the father's name of the plaintiff is Ajab Gul according to the same.
9. Claim and contention of plaintiff is that his correct father's name is **Ajad Gul**, however, defendant have incorrectly entered his father's name as **Ajab Gul** in their record which is wrong, illegal and liable to be rectified. Plaintiff has placed reliance on Ex.PW 1/1 and Ex. PW1/3 wherein father's name of the plaintiff is recorded as **Ajad Gul**.
10. After conclusion of the evidence pro and contra evidence heard and case file is gone through.
11. Learned counsel for the plaintiff argued that the correct name of the plaintiff's father is Ajad Gul whereas, defendant has wrongly entered the same as Ajab Gul which is wrong, against law & facts and liable to be corrected: He requested for decree of the suit.
12. On the contrary, learned counsel for defendant argued that plaintiff himself has entered his father's name in the record and as such estopped to sue. He further contended that the evidence available on the file is not sufficient to prove the stance of the plaintiff and the suit is liable to be dismissed.
13. Issue wise findings of this court are as under: -

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Issue No. 02:

Neither pressed at the bar nor proved through evidence, hence deleted as redundant.

Issue No. 03:

The instant suit has been filed for declaration u/s 42 of Specific Relief Act. Article 120 of the Limitation Act provides six years limitation for filing of such like suits from the date of the knowledge. Plaintiffs had received his Detailed Marks Certificate on 23/10/2017 while the suit in hand has been instituted on 27/01/2021, which is well within time.

Issue decided in positive.

Issue No. 04:

Claim of the plaintiff is that defendant had wrongly incorporated his father's name as Ajab Gul in their record instead of Ajad Gul. In order to rebut this entry plaintiff produced his relative as PW-2, who produced his CNIC as Ex. PW-2/1, and stated that the correct name of plaintiff's father as Ajad Gul. Moreover, plaintiff also produced another witness namely Saif Ullah as PW-3 who produced his CNIC as Ex. PW-3/1, wherein he also stated that the correct name of plaintiff's father as Ajad Gul. Moreover, Plaintiff has placed reliance on Ex.PW 1/1 and Ex. PW1/3 wherein father's name of the plaintiff is recorded as **Ajad Gul.**

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The plaintiff further stated that due to these wrong entries, their family registration system is disturbed. The above stated documents are sufficient to prove the claim of the plaintiff to be true.

For what has been discussed above the court is of the opinion that correct name of the plaintiff's father is Ajad Gul.

Issue is decided in positive.

Issues No. 01 and 05:

Both these issued are interlinked, hence, taken up together for discussion. For what has been held in issue Nos. 4, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

Both these issues are decided in positive.


14. **Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendant is directed to correct their record and issue school certificates to the plaintiff with his correct father's name as Ajad Gul.

15. Parties are left to bear their own costs.

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

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Civil Judge/JM-I,
Orakzai (At Baber Mela)

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CERTIFICATE

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

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Sami Ullah
Civil Judge/JM-I,
Orakzai (At Baber Mela)