

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

Civil Suit No. 132/1 of 2022
Date of Original Institution: 17.09.2022
Date of Decision: 26.10.2022

Khatmeena Jan wife of Iltaf Ali, resident of Qaum Bar Muhammad Khel, Tapa Khudaidad Khel, Kada Bazar, Pat Tangi, 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 has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct name of the plaintiff is **Khatmeena Jan** and correct husband name is **Iltaf Ali**, while it has been wrongly entered as Inayat Ullah Jan wife of Maqsood Ali in the defendants record, which is 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 name of the plaintiff is **Khatmeena Jan** wife of **Iltaf Ali**, while defendants have wrongly entered as Inayat Ullah Jan wife of Maqsood Ali in her 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:

Burden of proof regarding this issue was on defendants. Estoppel needs cogent, convincing and reliable evidence which is lacking on the part of defendants, therefore, the issue is decided in negative and against the defendants.

Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiffs 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

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the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 17.09.2022. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in her plaint that the correct name of the plaintiff is **Khatmeena Jan** and correct husband name is **Iltaf Ali**, whereas, defendants have wrongly entered the same as Inayat Ullah Jan wife of Maqsood Ali.

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The plaintiff produced witnesses in whom Khial Din Ali, the relative of the plaintiff, deposed as PW-01. He supported the stance of the plaintiff as narrated in the plaint. Farman Ali son of Sher Nabi, the cousin of the plaintiff, appeared as PW-02. He also supported the stance of the plaintiff. Nikam Ali son of Torab Ali, the brother of the plaintiff, appeared as PW-03. He produced his CNIC which is exhibited as Ex. PW-3/1. He stated that correct name of the plaintiff is **Khatmeena Jan wife of Iltaf Ali**, while the one Maqsood Ali is the father-in-law of the plaintiff. Further stated that his father name is Torab Ali and

mother name is Warmenje and the same are parents of the plaintiff. During cross examination PW-03 stated that Mst: Khatmeena Jan is his sister and her husband name is **Iltaf Ali** and her father name is Maqsood Ali. Nothing tangible has been extracted out of him. Further Mst: Khatmeena Jan, the plaintiff herself, appeared as PW-04. She produced her CNIC, her husband CNIC and her father-in-law CNIC which are exhibited as Ex. PW-4/1 to Ex. PW-4/3 respectively and stated that her correct name is **Khatmeena Jan** and correct husband name is **Iltaf Ali**, whereas defendants have wrongly entered her name as Inayat Ullah Jan and husband name as Maqsood Ali, actually Maqsood Ali is her father-in-law. Further stated that her father name is Torab Ali and mother name is Warmenje whereas, defendants have wrongly entered her mother name as Peeshaka. During cross examination she stated that her correct name is **Khatmeena Jan** and father name is Torab Ali, while Inayat Ullah Jan is her mother-in-law. Further stated that her correct mother name is Warmenje and she is famously known as Peeshaka which has also been entered in defendants record. She further stated that she took her mother-in-law CNIC to NADRA Office for Form verification and uploaded her picture on her

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mother-in-law CNIC. That she is illiterate and does not know much more.

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, who produced, the family tree of the plaintiff and the processing form of the plaintiff which are exhibited as Ex. DW-1/1 & Ex. DW-1/2 respectively. That according to NADRA record, date of birth of plaintiff is 01.01.1968 and her name is Inayat Ullah Jan. According to family tree of the plaintiff, father name of plaintiff is Torab Ali and mother name is Peeshaka and her husband name is Maqsood Ali and her status is of widow. But during cross examination, he admitted that the plaintiff is illiterate lady. The processing form of the plaintiff is not attested by any of the family members. That husband of the plaintiff namely Iltaf Ali is before the court who is alive.

Arguments already heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff has produced reliable witnesses in support of her stance. Thus, the plaintiff established her claim, therefore, the issue is decided in positive.

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Issue No. 01 &02:

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

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 name of the plaintiff as **Khatmeena jan** and husband name as **Iltaf Ali**. This decree shall not effect to rights of other(s) or service record if any.

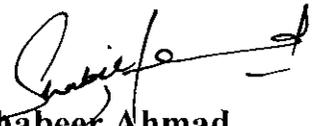
File be consigned to the District Record Room, Orakzai after its necessary completion and compilation.

Announced
26.10.2022


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CERTIFICATE

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


Shabeer Ahmad
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai