

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

Civil Suit No. 156/1 of 2022
Date of Original Institution: 12.11.2022
Date of Decision: 21.12.2022

Bakhtawar Jan wife of Yameen Ali, resident of Qaum Qaum Bar Muhammad Khel, Tapa Alat Khel, 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 father name of plaintiff is **Ashiq Ali** and correct mother name is **Safeera Jan**, while defendants have wrongly entered the same as Ali Ghulam and Qabila Jan in her CNIC, which are wrong, ineffective upon the right of the plaintiff and liable to correction. That the defendants were asked time and again to do the

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aforesaid correction but they refused, hence, the present suit;

- 2. Defendants were summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.
- 3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

- 1. Whether the plaintiff has got a 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 **Ashiq Ali** and correct mother name is **Safcera Jan** where defendants have entered the father name of the plaintiff is Ali Ghulam and mother name as Qabila Jan 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: -

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Issue No. 02:

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

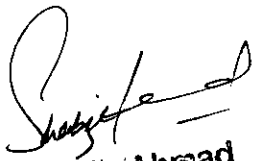
Issue No. 03:

The defendants in their written statements raised their objection that suit of the 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 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 12.11.2022. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in her plaint that that correct father name of plaintiff is **Ashiq Ali** and correct mother name is **Safcera Jan**, while defendants have wrongly entered the same as Ali Ghulam and Qabila Jan in her CNIC which are wrong, ineffective upon the right of the plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Mr. Yameen Ali, the attorney and husband of plaintiff, appeared as PW-01. He produced special power of attorney which is Ex. PW-1/1. He stated that plaintiff is his wife and her father name is **Ashiq Ali** and mother name is **Safcera**


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Jan, while defendants have wrongly entered the same as Ali Ghulam and Qabila Jan. He further produced copies of his CNIC and plaintiff CNIC which are Ex. PW-1/2 & Ex. PW-1/3 respectively. He lastly requested for the decree of the suit as prayed for. During cross examination he stated that the late Ali Ghulam is his villager and his wife name is Qabila Jan. He further stated that correct father name of plaintiff is **Ashiq Ali** and correct mother name is **Safeera Jan**. Mr. Qadeer Hussain son of Ashiq Ali, brother of plaintiff, appeared as PW-02, who produced his CNIC which is Ex. PW-2/1. He supported the stance of the plaintiff. During cross examination he stated that plaintiff is his real sister. The one Ali Ghulam is his villager. He further stated that his grand-fathers names are Meer Wali and Ali Nabi. Mr. Zahid Ali son of Nabi Ghulam, a villager of plaintiff, appeared and deposed as PW-03. He produced his CNIC which is Ex. PW-3/1. He stated that correct father name of plaintiff is **Ashiq Ali** and correct mother name is **Safeera Jan**. He further stated that Ali Ghulam is his grandfather and Qabila Jan is his grandmother. During cross examination he stated that plaintiff is resident of his village, Sarobi Garhi. Ali Ghulam is only villager of plaintiff not a relative.

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In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants who appeared as DW-1. He produced the CNIC Processing Form and Family Tree of plaintiff which are Ex. DW-1/1 & Ex. DW-1/2 and stated that plaintiff made her 1st CNIC on 25.11.2011 and has entered her father name as Ali Ghulam and mother name as Qabila Jan. During cross examination he admitted that plaintiff is illiterate. He further stated that there is no one else in the family tree of the plaintiff and they will have no objection if the suit is decreed in favor of plaintiff.

Arguments heard and record perused.

After hearing of arguments and perusal of the record I am of the opinion that the plaintiff has produced oral and reliable witnesses, which fully supported the claim of the plaintiff. Thus, the plaintiff established her claim through cogent and reliable evidence, therefore, the issue is decided in positive.

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Issue No. 01 & 05:

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

As sequel to my findings on issue No. 04 the plaintiff has got a cause of action and therefore entitled to the

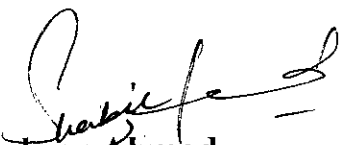
decree as prayed for. Thus, both these issues are decided in positive.

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 the father name of plaintiff **As Ashiq Ali** and correct mother name **As Safera Jan** in their record. This decree shall not effect to rights of other person or service record if any.

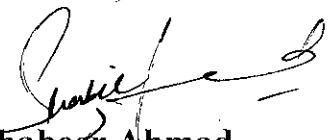
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
21.12.2022


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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
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Tehsil Court, Kalaya, Orakzai