

IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	64/1 of 2023
Date of Institution:	05/12/2023
Date of Decision:	04/04/2024

Muhammad Umar S/O Jamal U Din.
R/O Qoam Mamozai, Tappa Toor Smat, Tehsil Upper, Ghiljo, 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 Umar** has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that his correct father's name is **Jamal U Din** but the defendants have wrongly incorporated his father's name as Sabireen in their record. Furthermore, the correct mother's name of the plaintiff is **Lal Gula** but defendants have also wrongly incorporated his mother's name as Bibi Jana in their record, which is wrong and ineffective upon his rights and are liable to be corrected. 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 Jamal U Din?
5. Whether the correct mother name of plaintiff is Lal Gula?
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?

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7. This issue was framed from preliminary objections raised by the defendants in their written statement. Burden of proof regarding the 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.

Issue No. 04 and 05:

Whether the correct father name of the plaintiff is Jamal U Din?

Whether the correct mother name of plaintiff is Lal Gula?

8. The plaintiff alleged in his plaint that the correct father and mother names of plaintiff are **Jamal U Din** and **Lal Gula** while the defendants have wrongly entered the same as Sabireen and Bibi Jana, 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 **Jamal U Din** and **Lal Gula**.
10. The plaintiff himself appeared as PW-1, recorded his statement that his correct father's and mother's name are **Jamal U Din**

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and **Lal Gula** while defendants have wrongly incorporated the same as Sabireen and Bibi Jana. Whereas in reality Sabireen and Bibi Jana are his Uncle and aunt. He further stated that Abdul Majeed is his elder brother and his father name i.e. **Jamal U Din** is correctly mentioned in the CNIC of his elder brother. Copy of his CNIC and copy of CNIC of his elder brother are Ex.PW-1/1 and Ex.PW-1/2. He recorded in his cross examination that **Jamal U Din** was mentioned in his first CNIC, later on, the same was changed to Sabireen by Nadra office in IDPs Camp.

11. PW-02 namely Payo Gul recorded in his statement that plaintiff is his cousin and he testified the claim and contention of the plaintiff. He stated that father's and mother's name of plaintiff are **Jamal U Din** and **Lal Gula**. He further stated that plaintiff is not his real brother. His CNIC and his father CNIC are Ex.PW-2/1 and Ex.PW-2/2. He recorded in his cross examination that Jamal U Din has three sons who are alive.

12. PW-03 namely Bibi Amina recorded in her statement that plaintiff is her brother. She stated that her father name is **Jamal U Din** while **Lal Gula** is her stepmother and real mother of the plaintiff, whereas Sabireen and Bibi Jana are her uncle and aunt. His CNIC is Ex.PW-3/1. She stated in her cross examination that her husband name is mentioned in her CNIC. She admitted that she has three brother and her elder brother

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name is Abdul Majeed and Abdul Majeed has not come to the court for evidence. She stated that her real mother name is Khayal Bibi.

13. After that plaintiff closed their evidence.
14. 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 trees (Alpha and Beta) of plaintiff which are Ex. DW-1/1 and Ex. DW-1/2. According to these documents, plaintiff has made out English CNIC (NICOP) and visited to foreign country. Nothing incriminating was recorded during the cross examination of the said DW.
15. Arguments heard and record perused.
16. 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-3 who is the sister of plaintiffs, stated that plaintiff is her brother. Similarly, the plaintiff produced a witness i.e. PW-02 who is cousin of plaintiff, stated that plaintiff is his not brother rather he is his cousin. It is pertinent to mention here that the plaintiff is placed in family tree of PW-02 as his brother. Both the witnesses testified in favour of the plaintiff. Moreover, PW-01 has exhibited CNIC of his elder brother in

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which father name of the plaintiff is correctly mentioned in Ex.PW-1/2.

17. Thus, in the light of the aforesaid findings, the issues are decided in positive and it is held that the correct father's and mother's name of the plaintiff is **Jamal U Din** while **Lal Gula**.

Issue No. 01 & 06:

Whether plaintiff has got cause of action?

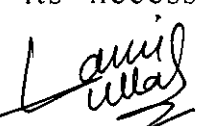
Whether the plaintiff is entitled to the decree as prayed for.

18. 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:

19. 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 **Jamal U Din** and **Lal Gula** in their record.
20. Parties are left to bear their own cost.
21. Decree sheet be drawn up accordingly.
22. File be consigned to the Record Room after its necessary completion and compilation.

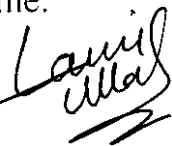
Announced
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CERTIFICATE

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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