

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

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Civil Suit No. 36/1 of 2024
Date of Institution: 02.03.2024
Date of Decision: 21.06.2024

*Mst. Salma Bibi D/O Muhammad Jameel & W/O Abdul Qadir, R/O
Qoum Bar Qambar Khel, District Khyber, Presently R/O Gota Khel,
Qoum Mamozai, Tappa Sipoy, Tehsil Upper, District Orakzai.*
(Plaintiff)

VERSUS

1. *Deputy Director General NADRA, Islamabad.*
2. *Deputy Director General NADRA, Peshawar.*
3. *Assistant Director NADRA, Orakzai.*

(Defendants)

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

JUDGEMENT:

21.06.2024

1. Plaintiff Mst. Salma Bib W/O Abdul Qadir has brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that correct name of her father is Muhammad Jameel and that of her mother is Mst. Bibi Hawa, while the same have been wrongly entered in her record with the defendants as Nooran Shah and Shamina respectively.

She alleged that the defendants were asked time and again for correction of parents' name in her record, but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing authority letter and written statement.

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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 plaintiff is bad in its present form?*
4. *Whether the correct father and mother names of plaintiff are Muhammad Jameel and Bibi Hawa and defendants have wrongly entered the same as Nooran Shah and Shamina in their record with respect to the plaintiff?*
5. *Whether plaintiff is entitled to the decree as prayed for?*
6. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

4. **PW-01:** Aslam Khan Shah s/o Syed Rasool Khan who is the special attorney of the plaintiff appeared as PW-01 and repeated the contents of plaint of the plaintiff. He produced his special power of attorney which is Ex. PW-1/1, his own CNIC which is Ex.PW-1/2, CNIC of the plaintiff which is Ex.PW-1/3 and CNIC of husband of the plaintiff as Ex.PW-1/4. At the end, requested for decree of suit as prayed for.

PW-02 is the statement of Muhammad Jameel s/o Shams-ul-Haq, father of the plaintiff. He supported the stance of the plaintiff by narrating the same story as in the plaint. Copy of his CNIC is Ex.PW-2/1. He was cross-examined by the representative of the defendants.

6. **PW-03** is the statement of the Mst. Bibi Hawa w/o Muhammad Jameel (mother of the plaintiff). She also supported the stance of the Mst. Salma Bibi Vs NADRA etc

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plaintiff and repeated the same story as in the plaint. Copy of her CNIC is Ex.PW-3/1. She was also cross-examined by the representative of the defendants.

7. **PW-04** is the statement of Mst. Shamina w/o Nooran Shah R/O Qoum Bar Qambar Khel, District Khyber. She stated that the plaintiff is nor her daughter but she has been wrongly mentioned as her daughter by the defendants in her record. She further repeated the same story as in the plaint. Copy of her CNIC is Ex.PW-4/1 and that of her husband is Ex.PW-4/2. She was cross-examined by the representative of the defendants and admitted that the plaintiff is not her daughter.

8. On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01. He produced the Family Trees of the plaintiff which are Ex. DW-1/1 and DW-1/2 wherein the father's name of the plaintiff is mentioned as Nooran Shah and that of her mother is Shamina and her date of birth is mentioned as 01.01.1998. That the address of her parents is mentioned as District Khyber and the plaintiff produced the CNICs of Nooran Shah and Shamina to NADRA while applying for CNIC and she has admitted the terms and conditions as

correct and prayed fore dismissal of the suit of the plaint. He was cross-examined by the counsel for the plaintiff wherein he admitted that Muhammad Jameel and Mst. Bibi Hawa (parents of the plaintiff) appeared before the court as PW-02 and PW-03 and they have confirmed that the plaintiff is their daughter. Further admitted that Mst. Shamina w/o Nooran as PW-03, has also verified that the plaintiff is not her daughter.

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After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02 & 03:

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

The defendants in their written statement have alleged that the plaintiff is estopped to sue and that the suit of the plaintiff is bad in its present form, but neither any evidence is produced during the course of evidence nor the same is pressed during the course of arguments. Both these issues decided in positive.

Issue No. 04:

Plaintiff has alleged in her plaint that correct name of her father is Muhammad Jameel and that of her mother is Mst. Bibi Hawa, while the same have been wrongly entered in her record with the defendants as Nooran Shah and Shamina respectively.

During the course of evidence, special attorney of the plaintiff appeared as PW-01 and confirmed the contents of the plaint during his statement and requested for correction as prayed for in the plaint. He exhibited his special power of attorney which is Ex. PW-1/1, his own CNIC which is Ex. PW-1/2, CNIC of the plaintiff which is Ex. PW-1/3 and CNIC of husband of the plaintiff as Ex. PW-1/4.

This fact is affirmed by PW-02 Muhammad Jameel and PW-03

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Mst. Bibi Hawa being real parents of the plaintiff. The names of the parents of the plaintiff have been wrongly entered in the record of the defendants which is also confirmed by PW-04, Mst. Shamina. There is nothing more authentic to rebut the statement of the real parents of the plaintiff as PW-02 being father and PW-03 being mother, and the statement of Mst. Shamina as PW-04, relating to the fact that plaintiff is real daughter of Muhammad Jameel and Mst. Bibi Hawa and Nooran Shah and Shamina have been wrongly mentioned as the parents of the plaintiff in the record with the defendants. Now, after establishing the said fact, it is mandatory for the defendants to make rectification of parentage of the plaintiff in her record with them. Issue is decided in positive.

Issue No. 01 & 05:

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

As sequel to my findings on issue No. 04, the plaintiff has proved through cogent evidence that correct name of her father is Muhammad Jameel and that of her mother is Mst. Bibi Hawa instead of Nooran Shah and Shamina. Issues No. 01 & 05 are decided in positive.

RELIEF:

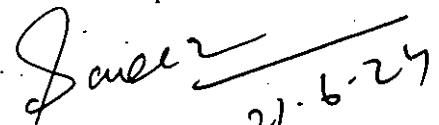
As sequel to my above issue-wise findings, the plaintiff proved her case through cogent evidence, therefore suit of the

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plaintiff is hereby decreed as prayed for with no order as to cost.

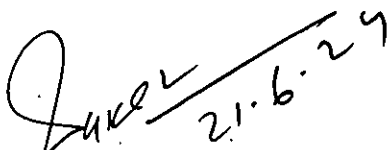
File be consigned to the Record Room after its completion and compilation.

Announced
21.06.2024


(Bakht Zada) 21.6.24
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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


(Bakht Zada) 21.6.24
Senior Civil Judge,
Orakzai at (Baber Mela)