

IN THE COURT OF SYED ABBAS BUKHARI,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 28/1 of 2024
Date of Original Institution: 25.06.2024
Date of Decision: 01.08.2024

Muhabbat khan S/O Abdul Haseeb R/O Bezot, Tapa
Bhitani Tehsil Lower, District Orakzai.Plaintiff

VERSUS

- 1. Chairman NADRA Islamabad.**
- 2. DG NADRA Hayatabad Peshawar.**
- 3. Assistant Director, NADRA District Orakzai ...Defendants**

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

JUDGMENT

01.08.2024

Vide this Judgment I intend to dispose of suit captioned above.

It is suit from plaintiff against defendants for declaration cum perpetual and mandatory injunction to the effect that actual and correct name of plaintiff is **Muhabbat Khan** while the same has been incorrectly mentioned in the record of defendants as Muhammad Khan.

After institution of instant suit defendants were summoned, who appeared through their representative and submitted their written statement with legal and factual objections.

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

Issues:

1. Whether plaintiff has got cause of action? OPP
2. Whether the correct name of plaintiff is Muhabbat Khan? OPP
3. Whether the plaintiff is entitled to the decree as prayed for? OPP
4. Relief.

Thereafter both the parties were directed to produce their respective evidence, which they did and plaintiff produced as many as three witnesses and thereafter closed their evidence with a note. Contrary to this defendants examined their sole witness as DW-01 and thereafter closed their evidence.

Both the counsels for the parties advanced arguments. Counsel for plaintiff opened arguments and stated that correct name of plaintiff is Muhabbat Khan but same has been incorrectly mentioned in the record of defendants as Muhammad Khan. He further argued that previously two CNICs were issued to plaintiff by defendants and his initial CNIC, which has now been cancelled by the defendants, contained his correct name while the subsequent CNIC contains his incorrect name. He further argued that plaintiff succeeded to prove his stance through cogent, convincing and


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reliable evidence and furthermore, nothing in rebuttal has been brought on record by the opposite party. Hence prayed that suit in hand may kindly be decreed in favour of plaintiff and against defendants for the relief as claimed for.


Contrary to this representative for defendants argued his case and stated that plaintiff had previously obtained two CNICs , which is illegal and thus the initial CNIC of plaintiff was cancelled upon his request. He further argued that the restoration of initial CNIC of plaintiff is not possible for the reason that rule does not permit so. He further argued that suit in hand is not maintainable, hence same may kindly be dismissed.

Now on perusal of record, evidence recorded by both the parties and valuable assistance of both the counsels for the parties, my issue wise findings are as under: -

Issue No. 02:

**Whether the correct name of plaintiff is Muhabbat Khan?
OPP**

The plaintiff has previously alleged in his plaint that his correct name is Muhabbat Khan while same has been incorrectly mentioned in the record of defendants as Muhammad Khan. To prove his stance plaintiff


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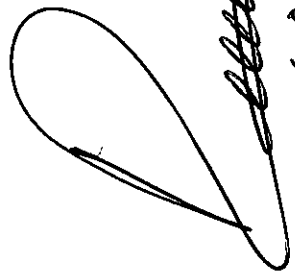
personally appeared in the witness box as PW-01 and deposed in light and support of issue in hand and further produced Ex-PW1/1 to Ex-PW1/3. During cross examination he deposed that he is illiterate and both his CNICs were not issued with his consent. Self stated that he visited NADRA office for issuance of CNIC and they issued the same. It is correct that his both CNICs contain different names.

PW-02 was produced and examined as one Fazal Rahim s/o Khuwaja Wali, who stated on oath in light and support of the stance of plaintiff. During cross examination nothing contradictory has been brought on the record.

PW-03 was produced and examined as one Jasraat Khan s/o Mast Ali, who deposed on oath in light and support of issue in hand. During cross examination nothing in rebuttal has been brought on the record.

In light of the above evidence produced by plaintiff to prove issue in hand, it has been noticed that all the PWs deposed in light and support of the stance of plaintiff previously alleged in the plaint. Furthermore, during cross examination nothing in rebuttal or contradictory has been brought on the record. Moreover perusal of Ex-PW1/3 would reveal that in the CNICs of the sons of

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plaintiff, his name in the column of father name has been correctly mentioned as Muhabbat Khan, which also support the stance of plaintiff. It is also pertinent to mention here that issuance of two CNICs to one and the same person with different names is negligence of NADRA authorities and without the aid and assistance of NADRA authorities no one can obtain CNIC.

In light of above discussion, plaintiff succeeded to prove his stance through cogent, convincing and reliable evidence and furthermore, there is nothing such contradictory or in rebuttal available on the record, hence accordingly issue in hand is hereby decided in positive in favour of plaintiff and against defendants.

Issue No. 01 & 03:

Whether the plaintiff has got cause of action? OPP
Whether the plaintiff is entitled to the decree as payed for? OPP

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

As sequel to my findings on issue No. 2, the plaintiff has got a cause of action and therefore he is entitled to the decree as prayed for. Thus, both these issues are decided in positive in favour of plaintiff and against defendants.

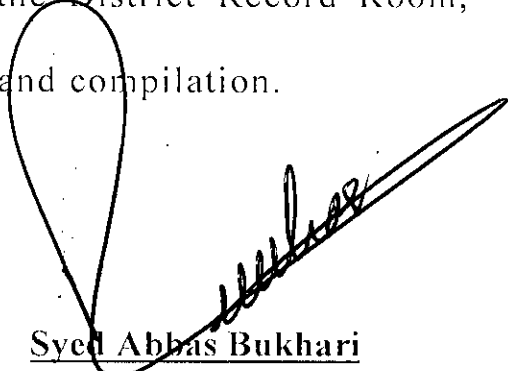
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RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed** as prayed for. No order as to costs. Defendants are directed to enter the correct name of plaintiff in their record as **Muhabbat Khan** and thereafter issue fresh CNIC to plaintiff with his correct name. This decree shall not effect the rights of other person(s) or service record if any.

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

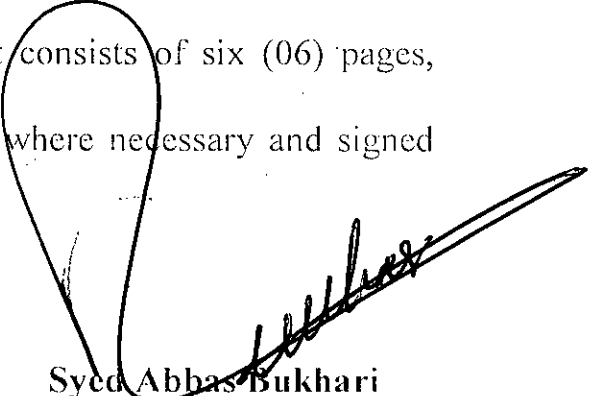
Announced
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CERTIFICATE

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

01.08.2024


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