

IN THE COURT OF MUHADMMAD IMTIAZ CIVIL
JUDGE-II ORAKZAI

Suit No..... 72/1 of 2019
Date of Institution..... 01/10/2019
Date of Decision..... 07/02/2020

1. Rehman Ullah S/O Wali Man Shah R/O Qoum
Sheikhan, Oatt Mela, Mishti, District Orakzai
..... (Plaintiff)

V E R S U S

1. The Registrar General NADRA, Islamabad
2. The Deputy- Registrar General NADRA Peshawar, KPK
3. Assistant Registrar General NADRA, District Orakzai.
Through
Deputy Assistant Director NADRA Registration Office,
Orakzai
.....(Defendants)

SUIT FOR DECLARATION, MANDATORY AND DIRECTROY
INJUNCTION

Mr. Noor Karim Advocate for the Plaintiff
Defendants through representative MR. Farhat Abbas

JUDGMENT

1. Brief facts of the case are that Plaintiff filed suit for Declaration, Mandatory Injunction and Directory Injunction to effect that Plaintiff's Correct Father name is ولی من شاه and of his mother is انجیر گلہ while in the defendant's documents/record (CNIC No. 21601-8607586-1) Father name is محمد شریف and of

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his mother is توکمینہ which is wrong, clerical mistake and liable to be corrected.

2. Defendant were summoned through the Process of the Court upon which they appeared, through representative Mr. Farhat Abbas. Filed Written Statement and denied the claim of the plaintiff and objected the same on so many legal and factual grounds.

3. Pleadings of the parties were reduced to the following issues.

ISSUES:

- (1) *Whether the plaintiff has got the cause of action? OPP*
- (2) *Whether correct names of the parents of the plaintiff are Wali Man shah and Anjeer Gula, while the defendants have recorded/mentioned Plaintiff's parents' names as Muhammad Shareef and Toot Meena which is wrong, clerical mistake and liable to be corrected? OPP*
- (3) *Whether the plaintiff is entitled to the decree as prayed for? OPP*

Relief

4. Parties were provided with an opportunity to produce their respective evidence who accordingly produced them as follows:

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Muhammad Ullah
Opponent
Counsel for (Wali Meena)

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PW-NAME	DOCUMENTS PRODUCED	EXHIBIT
<u>PW-01</u> <u>Rehman Ullah</u> Plaintiff himself	a. Copy of his CNIC, b. Copy of CNIC of his Father c. Copy of CNIC of his Mother	a. Ex.PW01/01 b. Ex.PW 01/02 c. d. Ex.PW 01/03
<u>PW-02</u> <u>Sahib Gul</u> Co-Villager of the plaintiff	Copy of his CNIC	Ex.PW 02/01
<u>PW-03</u> <u>Mst. Injeer Gula</u> Mother of the plaintiff	Copy of her CNIC	Ex.PW 03/01

Then after Plaintiff closed his evidence. On the other hand, Defendants produced the following evidence.

DW- NAME	DOCUMENTS PRODUCED	EXHIBIT
<u>DW-01</u> Representative of the defendants <u>Mr. Farhat Abbas</u>	a. CNIC Processing form of the Plaintiff b. Plaintiffs form for CNIC c. Plaintiff's family tree by birth d. Family tree of Wali Man Shah	a. EX. DW 1/1 b. EX.DW-1/2 c. EX.DW-1/3 d. EX.DW-1/4

Evidence of the Defendant then closed.

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5. With the valuable assistance of learned counsel for the parties, I have gone through the record. My issue wise findings are as under: -

Issue No.02:- *Whether correct names of the parents of the plaintiff are Wali Man shah and Anjeer Gula, while the defendants have recorded/mentioned Plaintiff's parents' names as Muhammad Shareef and Toot Meena which is wrong, clerical mistake and liable to be corrected? OPP*

6. Onus to prove this issue is upon the plaintiff. Perusal of case file reveals that this is the main contention of the plaintiff.

7. This fact is admitted through oral and documentary evidence, Ex.PW 01/03 and Ex.DW 01/04, produced by the parties; that Mst. Injeer Gula was the wife of Wali of Man Shah. Father of the Plaintiff "Wali Man Shah" had passed away. While his mother "Mst. Injeer Gula" is still alive. After demise of her husband, she has not contracted any second marriage. Even nothing is bring forth on record by defendants that Mst. Injeer Gula is not the mother of plaintiff.

8. To discharge his burden, plaintiff produced his Mother as PW-03. His mother appeared before the Court. Recorded her statement on oath. She admitted that plaintiff is her real son. She also admitted that she knows "Muhammad Shareef" and "Mst. Took Meena". They are my (PW-03) cousins. Although she has not given any plausible explanation as to why his son mentioned to defendants' wrong names of their parents.

Handwritten signature and stamp:
 Mst. Injeer Gula
 Plaintiff
 (PW-03)

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9. Statements of the parents always carries great weightage for the reason they give birth to children's and they know their kids. Moreover, taking wisdom from the law reported in

PLD 2003 Supreme Court page 849, "wherein it has been mentioned by the honorable Supreme Court of Pakistan that the best evidence to prove this fact (age or date of birth) was of those person who would have an ordinary course of life having personal knowledge. Statement of mother is at high pedestal as compared to other as she has given birth to him."

10. For what has discussed above this issue is decided in "Affirmative"

**Issue No.01:- Whether plaintiff has got the cause of action?
OPP**

Issue No.03:- Whether the plaintiff is entitled to the decree as prayed for? OPP

11. Both issues are inter-related, will be decided together. On the basis of discussion, while deciding issue No.02, Plaintiff has **GOT** cause of action. Plaintiff is **Entitled** to the decree as prayed for.

12. Hence both issued are decided in "Affirmative".

Relief

13. As plaintiff proved his case through cogent and reliable evidence the same is hereby Decreed to effect that Plaintiff's Correct Father name is دلی من شاہ and of his mother is انجیر گہ while

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in the defendant's documents/record (CNIC No. 21601-8607586-1) Father name is محمد شریف and of his mother is توکمینہ

which is wrong, clerical mistake and liable to be corrected.

14. Defendants are hereby directed to make the changes/correction accordingly in their Documents/Record concerned as per their prescribed procedure by law.

15. Parties are left to bear their own cost. Case file be consigned to record room after necessary completion and compilation.

ANNOUNCED:
07/02/2020

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Orakzai (Babar Mela)
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

CERTIFICATE

Certified that this judgment consists of six (06) pages and each page is read over, checked and corrected wherever necessary.

Muhammad Imtiaz
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Orakzai (Babar Mela)
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI