

42

**IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Original:

Civil Suit No. 74/1 of 2020
Date of Institution: 08/10/2019

Transfer in:

Civil Suit No. 283/1 of 2020
Date of Institution: 02/06/2020
Date of Decision: 05/10/2020

Bushra Bibi d/o Mubarak Hussain w/o Amanullah Khan

Section AaKhel Sub Section Mohsin Khel village Malang Garhi, Tehsil Ismail Zai &
District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

05.10.2020

Brief facts of case in hand are that the plaintiff, **Bushra Bibi d/o Mubarik Hussain**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that her correct name is "**Bushra Bibi**" which has been correctly recorded in her education record, domicile and Nikah Nama while defendants have wrongly mentioned her name as "**Mawa Sheikh**" in their record, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written

43

statement, wherein they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is bad in its present form?
3. Whether the correct name of plaintiff is "**Bushra Bibi**" whereas defendants have wrongly recorded the same in their record as "**Mawa Sheikh**"?

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

Relief?

5. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced her witnesses as PW-1 to PW-3.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the registration record of the plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/2.

7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

8. In the light of available record and arguments on learned counsel for the parties my issue wise discussion is as under:

Issue No. 3

Plaintiff contended in her plaint that her correct name is "**Bushra Bibi**" which has been correctly recorded in her educational record, Domicile and Niakh Nama but defendants

44

have erroneously recorded her name as "Mawa Sheikh" in their record and CNIC of plaintiff. Hence, the record is liable to be corrected.

Plaintiff in support of her contention produced her attorney as PW-1, who repeated the contents of plaint in his examination in chief. He produced, Nikah Nama of plaintiff as Ex.PW-1/2 while Matric certificate and Domicile certificate of the plaintiff as Ex.PW-1/4 and Ex.PW-1/5 respectively. During the cross-examination PW-1 stated that he has no knowledge about the issuance of 1st CNIC to the plaintiff. He further stated that he has also no knowledge about the name in first CNIC of the plaintiff. He also expressed his ignorance that whether plaintiff has changed her name in her CNIC.

PW-2, Hussain Asghar, stated in his examination in chief that he is father of the plaintiff and correct name of the plaintiff is Bushra Bibi. He produced his CNIC as Ex.PW-2/1.

PW-2 during the cross examination admitted that earlier CNIC was issued to the plaintiff, wherein her name and father name was correctly mentioned. He showed his lack of knowledge about change of name of plaintiff by submitting affidavit on stamp paper by plaintiff.

PW-3, stated in his examination in chief that he is the maternal uncle of plaintiff and the correct name of the plaintiff is Bushra Mubarak Hussain which has been correctly recorded

45

in her educational record. During cross examination stated that he has no knowledge about the issuance of earlier CNIC to the plaintiff. He also stated that he has no knowledge about the change of name of plaintiff in her CNIC.

On other hand, representative for defendants recorded his statement as DW-I, wherein, he produced the CNIC processing form of plaintiff as Ex. DW-1/1 while the affidavit of plaintiff for change of name and CNIC processing form as Ex. DW-1/2. During cross examination admitted that Ex. DW-1/2 correctly bears the signature of plaintiff. He admitted that the affidavit does not bear the seal and signature of Notary Public.


FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
05-10-2024

From the analysis of available record, it is evident that though the name of plaintiff in her educational record Ex. PW-1/4, Domicile Ex. PW-1/5 and Nikah Nama Ex. PW-1/2 has been recorded as “**Bushra Mubarak Hussain**” and similarly Ex.DW-1/1 also depicts that earlier plaintiff applied for CNIC in the name of Bushra Mubarak and CNIC to the plaintiff with the same name was issued yet Ex.DW-1/2 consisting of processing CNIC form and affidavit of plaintiff reveals that plaintiff herself applied to NADRA for change of her name from Bushra Mubarak to Mawa Sheikh in her CNIC and thus on the request of plaintiff her name was changed from Bushra Mubarak to Mawa Sheikh by issuing CNIC in question. So, the record on file clearly establishing that plaintiff herself has changed her

46

name from Bushra Mubarak to Mawa Sheikh and on her own request her name was changed by the NADRA by issuance new CNIC to her. The claim of plaintiff that her name was wrongly mentioned by defendants as Mawa Sheikh does not carry any weight and such a contention of plaintiff is without any footing. As it is evident from the record that plaintiff herself has changed her name from Bushra Mubarak to Mawa Sheikh, hence, under principle of estoppel she is precluded to seek any relief from court regarding the change of her name in her CNIC. Hence, the issue is decided in negative.

Issue No. 02:

Handwritten signature and date: 05.10.2020

PARM. NULLAH
Senior Civil Judge
Ordnance, Feroze Mehs

Defendants in the preliminary objection of their written statement, raised the objection that suit of plaintiff is incompetent in its present form. However, in the support of this contention neither any material was brought on record nor any defect was pointed out in the present form of suit of plaintiff during the course of arguments. The head note of plaint coupled with the body of plaint does not show any defect. Hence the issue is decided in negative.

Issue No. 01 & 4:

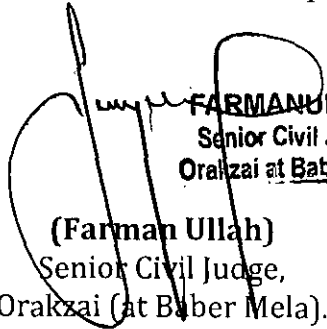
In the light of discussion on issue No.3 plaintiff has got neither any cause of action to file instant suit nor she is entitled to a decree as prayed for. Hence, both the issues are decided in negative.

47

Relief:

As sequel to above discussion, it is held that plaintiff failed to prove her stance through cogent, reliable and confidence inspiring evidence and plaintiff is also precluded to file instant suit due to her own conduct. Hence, the suit of plaintiff is dismissed. No order as to costs.

9. File be consigned to the record room after its completion and compilation.

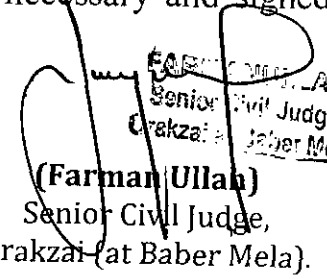

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela

(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

Announced
05/10/2020

CERTIFICATE

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


FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela

(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).