

IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 140/1 of 2019
 Date of Institution: 26/06/2019
 Date of Decision: 04/12/2019

Shama w/o Rahib Ali
 Resident of Village Bazar Ghari, PO Khadizai, Tehsil Lower & District Orakzai...
 (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Registrar, General NADRA Islamabad.**
3. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION


JUDGEMENT:

1. Plaintiff, **Shama w/o Rahib Ali**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that correct name of her husband is "**Rahib Ali**" while it has been wrongly mentioned as "**Rajab Ali**" by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

2. Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, which is placed on file.

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

Issues:



 MUHAMMAD AYAZ
 Senior Civil Judge,
 Orakzai at Hangu

1. Whether plaintiff has got cause of action.
2. Whether suit of plaintiff is within time.
3. Whether the correct name of the husband of the plaintiff is **Rahib Ali** while it has been wrongly entered in his CNIC as **Rajab Ali**.
4. Plaintiff is entitled to the decree as prayed for.
5. Relief.

Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.

3. PW-1, Abbas Raza, is attorney/relative of the plaintiff, who recorded his statement. He stated that the correct name of the husband of the plaintiff is "**Rahib Ali**", and which has been wrongly entered as "**Rajab**" Ali in her CNIC. He produced and exhibited copy of his CNIC as Ex. PW-1/1, power of attorney as Ex. PW-1/2, copy of service book of the plaintiff's husband is Ex. PW-1/3, copy of pension book as Ex. PW-1/4, death certificate of deceased as Ex. PW-1/5, copy of CNIC of the plaintiff as Ex. PW-1/6 and copy of CNIC of the plaintiff's as Ex. PW-1/8. He requested for decree as prayed for. He was cross examined by the defendants.

4. PW-2, Ali shah Gul, is neighbor of the plaintiff. He stated that the correct name of the husband of the plaintiff is Rahib Ali. He supported the contention of the plaintiff. He



MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Mangu

exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.

5. PW-3, Amir Ali, is cousin of the plaintiff's husband, who stated that the real name of the husband of the plaintiff is **Rahib Ali** and the name entered as Rajab Ali in the CNIC of the plaintiff is incorrect and against the facts. He exhibited his CNIC as Ex. PW-3/1. He is cross examined by the defendants through attorney.


6. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the record forms of the plaintiff and exhibited the same as Ex. DW-1/1 and Ex. PW-1/2, Data form of the husband of the plaintiff as Ex. PW-1/3 and family tree of the plaintiff as Ex. PW-1/4. He is cross examined by the plaintiff.

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

My issues wise findings are as under:

Issue No. 02:

7. The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However,


 MOHAMMAD ASAD
 District Judge
 Faisalabad

nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.

Issue No.03:

8. Plaintiff has filed the instant suit for declaration in respect of her correct husband's name. Perusal of record and evidence present on file reveals that the husband of the plaintiff was Government employ and had been working in Pakistan Army as Havildar. The said factum is admitted fact. As per the service book, exhibited as Ex.PW-1/3 and pension book, exhibited as Ex.PW-1/4 of the husband of the plaintiff, the correct name of the husband of the plaintiff is Rahib Ali. Moreover, this strong documentary piece of evidence on part of the plaintiff, in shape of service record of her husband, has not been rebutted by the defendants, which amounts to admission on part of defendants. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. In addition to, plaintiff is widow and wants to inherit the pension of her deceased husband for the welfare of her children, which cannot be denied to the plaintiff by spelling mistake in the name of husband of the plaintiff. Even otherwise, it is the fundamental right of the plaintiff to



correct the husband name in her CNIC, which cannot be denied to her. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the husband name of the plaintiff in her CNIC is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the husband name of the plaintiff in her CNIC is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said documents are admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. Hence, claim of the plaintiff is accepted. In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issue in hand is decided in affirmative.


MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hangu

Issue No. 01 & 04:

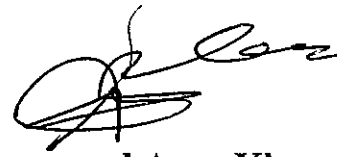
9. These issues are taken together. For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and she is entitled to the decree as prayed for. The issues are decided in positive.

Relief:

10. Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC to the plaintiff with correct husband name as **Rahib Ali**. Parties are left to bear their own costs.

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

Announced
04/12/2019



Muhammad Ayaz Khan
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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



MUHAMMAD AYAZ KHAN
Senior Civil Judge,
Orakzai (at Baber Mela).