

44

IN THE COURT OF IJAZ MAHSOOD, SENIOR CIVIL JUDGE,
ORAKZAI AT BABER MELA

Suit No.....102/1 of 2024.

Date of Institution.....10.10.2024.

Date of Decision.....05.11.2024.

= = = = =

- 1. Mst. Haibata w/d Noor Muhammad through his elder son
namely Abdul Khanan
- 2. Abdul Khanan S/O Noor Muhammad
- 3. Mst. Socha Mina
- 4. Mst. Socha Gula Ds/O Noor Muhammad
- 5. Siyal Khan S/O Noor Muhammad all R/O Qaum Mala
Khel, Tappa Qutab Khel, Badan, Tehsil Upper, District
Orakzai.

.....(Plaintiffs)

Versus

- 1. Chairman NADRA Islamabad
- 2. Director General NADRA Hayat Abad, Peshawar
- 3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGMENT

05.11.2024

This judgment decides instant case filed by Mst
Haibata and 04 others for the correction of identity particulars of
the former, and her husband, in the records maintained by the
defendant.

Senior Civil Judge
Orakzal at Baber Mela
05 NOV 2024

45

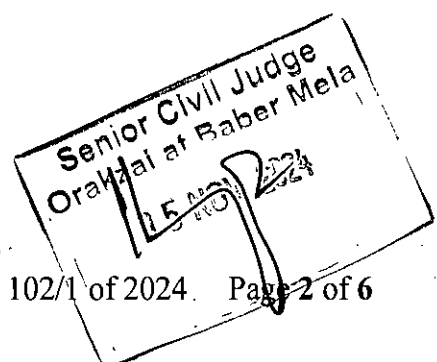
Pleadings:

The claim as related in the plaint reads that correct names of parents of plaintiffs No 02 to 04 are Mst. Haibata and Mr. Noor Muhammad Khan, respectively. That defendants have erroneously recorded their names as Haibata Jana, Noor Mast, and Noor Math, in the identity registration records of the plaintiff.

It is further stated that plaintiff no 01 is now deceased, and the pension of her husband, which she was receiving, is now sought to be conferred on her widow daughter. However, owing to the variance in records, the department is reluctant to proceed with the request until the controversy in respect of their names is settled, hence the suit.

In rebuttal, the defendant has raised the regular objections to the legal validity of the claim, the standing of the plaintiff, and factual version of the matter. He asserts that correct names of the parents of the plaintiffs 02-05 are as already recorded in their records. He requests for dismissal of the suit.

The controversy as related in the pleadings was distilled into the following issues:



Issues:

1. *Whether suit is valid in its legal frame, and the court is competent to hear it?*
2. *Whether correct names of the parents of plaintiffs no 02-05 are Mst. Haibata, and Mr. Noor Muhammad Khan, respectively?*
3. *Relief.*

Thereafter, both sides were invited to produce their evidence to establish the positions they had taken in their pleadings.

Witnesses/Exhibits:

Abdul Khanan, special attorney for the plaintiffs appeared as PW-01, Muhammad Umar s/o Noor Janan appeared as PW-02, Surat Khan s/o Abdul Aziz appeared as PW-03 and Irfan Hussain, representative for defendants appeared as DW-01 and exhibited the following documents;

- i. Special Power of Attorney as Ex.PW-1/1
- ii. Copy of pension book of deceased Mst. Haibata as Ex.PW-1/2.
- iii. Copy of MNIC of deceased Mst. Haibata as Ex.PW-1/3.
- iv. Copy of CNIC of deceased Mst. Haibata as Ex.PW-1/4.
- v. Copy of CNIC of Socha Mina as Ex.PW-1/5.
- vi. Copy of CNIC of Socha Gula as Ex.PW-1/6.
- vii. Copy of CNIC of Siyal Khan as Ex.PW-1/7.

Senior Civil Judge
Orakzai Baber Mela
04 NOV 2024

47

- viii. Copy of CNIC of Abdul Khanan as Ex.PW-1/8
- ix. Copy of CNIC of Muhammad Umar as Ex.PW-2/1.
- x. Copy of CNIC of Surat Khan as Ex.PW-3/1
- xi. Copy of Family Tree of the plaintiffs as Ex.DW-1/1.

Reasons/Reasoning:

Issue wise reasoning of the court following ruling on each issue, and finally on the suit is as follows:

Issue No 01:

This issue questions the legal validity of the frame of the suit, and the competence of the forum to hear it. Plaintiffs have sought correction of records in respect of their parents, which clearly is a civil matter, and thus amenable to the jurisdiction of this court under section 09 of the civil procedure code. Other objections such as limitation etc, were not rigorously pressed, and upon examination of the corpus of the case by the court, were found inapplicable. Therefore, the issue is decided for the plaintiff.

Issue No 02:

This issue houses the heart of the suit: correct names of the parents of the plaintiffs 02-05. It is claimed that their correct names are Mst. Haibata and Mr. Noor Muhammad, while defendant has recorded it with many variances in his record.

Senior Civil Judge
Orakzai at Baber Mela
05 NOV 2024

48

Defense's only witness concedes in his indirect examination that plaintiffs 02-05 are siblings interse, and the name of their parents is recorded incorrectly, and with multiple differences against each plaintiff.

Service record of deceased Mr. Noor Muhammad available on file as Ex-PW 1/2 holds the names as claimed by the plaintiffs. MNIC copy produced as Ex-PW 1/3, purportedly of plaintiff no 01 and duly issued by the then registering authority, also hold the names claimed.

Defendant could neither confirm or deny the MNIC, stating that records maintained previously before the establishment of NADRA are not accessible anymore. Interestingly, family tree supplied by the defendants, and available on file as Ex-PW1/1 holds parentage of the plaintiff with slight variances e.g. Haibat Jana, Khayad Jana, aibat nisa, and for father, Noor Mat, Noor Mast, etc.

It has been established that particulars of the parents of the plaintiffs, as maintained by the defendant, is filled with discrepancies. On the other hand, service record and MNIC, which, apparently and presumably, predates the impugned records maintain the names as claimed by the plaintiffs.

Senior Civil Judge
Orakzai at Baber Mela
11/11/2024

49

In view of the discussion above, the issue is decided for the plaintiffs.

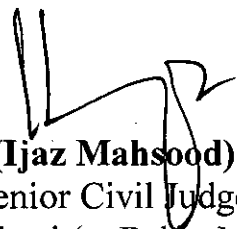
RELIEF:

Crux of my issue wise discussion is that suit of the plaintiffs are hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

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


ANNOUNCED

05.11.2024


(Ijaz Mahsood)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.


(Ijaz Mahsood)
Senior Civil Judge,
Orakzai (at Baber Mela)