IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	07/1 of 2023
Date of Institution:	23/01/2023
Date of Decision:	15/05/2023

1. **Fazal Muhammad S/O Gulab Khan.**
2. **Zainab Bibi W/o Gulab Khan**

Both R/O Qoam Mamozai, Tappa Meer Kalam Khel, Village Sama Mamozai PO Ghiljo Tehsil Upper, District Orakzai.

.....(Plaintiffs)

VERSUS

1. **Chairman Nadra, Islamabad**
2. **Director General Nadra, Peshawar**
3. **Assistant Director Nadra, District Orakzai.**

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiffs have brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that the correct address of plaintiff No.1 is **Qaom Mamozai, Tappa Mirkalam Khel, Village Sama Mamozai, P.O. Ghiljo, Tehsil Upper, District Orakzai** where defendants have wrongly mentioned the same in his CNIC, that the correct father's and mother's name of plaintiff No.1 is **Gulab Khan & Bibi Zainab** but the defendants have wrongly incorporated his father's and mother's name as Sulaiman & Niaz Bibi. Furthermore, the correct date of birth of plaintiff No.2 is **01.01.1969** but defendants have wrongly incorporated the same as 01.01.1977 in their record which is wrong and ineffective upon their rights and is liable to correction. The defendants were asked time and again for

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correction of address, father's & mother's name of plaintiff No.1 and date of birth of plaintiff No.2 but they refused to do so, hence the present suit;

2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by filing their written statement, wherein various legal and factual objections were raised.

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

Issues:

1. **Whether plaintiffs have got cause of action?**
2. **Whether the plaintiffs are estopped to sue?**
3. **Whether suit of the plaintiffs is within time?**
4. **Whether the correct address of plaintiff No.1 is Qaom Mamozai, Tappa Mirkalam Khel, Village Sama Mamozai, P.O. Ghiljo, Tehsil Upper, District Orakzai?**
5. **Whether the correct father name of the plaintiff No.1 is Gulab Khan?**
6. **Whether the correct mother name of plaintiff No.1 is Zainab Bibi?**
7. **Whether the correct date of birth of the plaintiff No.2 is 01.01.1969?**
8. **Whether the plaintiffs are entitled to the decree as prayed for?**
9. **Relief.**

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4. Arguments heard and record perused.

5. Parties were given ample opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiffs are estopped to sue?

6. The contesting defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later on failed to provide any piece of evidence and to prove the same, hence, the issue is decided in negative.

Issue No. 03:

Whether suit of the plaintiffs is within time?

7. The contesting defendants in their written statement raised the objection that suit of the plaintiffs is time barred but this court is of the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of declaratory suits. Moreover, Limitation Act, 1908 is extended to the erstwhile FATA on **31/05/2018** through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on **23.01.2023**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

Whether the correct address of plaintiff No.1 is Qaom Mamozai, Tappa Mirkalam Khel, Village Sama Mamozai, P.O. Ghiljo, Tehsil Upper, District Orakzai?

8. The plaintiffs alleged in their plaint that plaintiff No.1 is residing in District Orakzai, and his correct address is **Qaom Mamozai, Tappa Mirkalam Khel, Village Sama Mamozai, P.O. Ghiljo, Tehsil Upper, District Orakzai,** but defendants have wrongly mentioned the same as

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District Kurram in his CNIC, which is wrong, ineffective upon the rights of the plaintiff No.1 and liable to correction.

9. Burdon of proof regarding the issue was on plaintiffs. plaintiffs in order to discharge this Burdon, produced witnesses and keeping in view the statements recorded by the said PWs and by proving issue No.5 & 6, the instant issue regarding his correct address is decided in positive in favour of stance of plaintiff No.1.

Issue No. 05 &06:

Whether the correct father name of the plaintiff No.1 is Gulab Khan?

Whether the correct mother name of plaintiff No.1 is Zainab Bibi?

10. Both the issues are interlinked therefore, taken together for discussion.

11. The plaintiffs alleged in their plaint that the correct father and mother name of the plaintiff No.1 is **Gulab Khan** and **Zainab Bibi** while the defendants have wrongly entered same is as Sulaiman and Niaz Bibi.

12. The plaintiffs produced two witnesses and appeared himself in their favour, who recorded their statements and testified that the correct father's and mother's names of plaintiff No.1 are **Gulab Khan** and **Bibi Zainab.**

13. The plaintiff No.1 himself appeared as PW-1 and recorded his statement that he is residing at District Orakzai and his correct father's and mother's name is **Gulab Khan** and **Bibi Zainab**. He stated that the defendants have wrongly

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mentioned the same. Death certificate of his father, his CNIC and CNIC of his mother are Ex.PW 1/1 to Ex.PW-1/3.

14. PW-02 namely Sulaiman recorded in his statement that plaintiff No.1 is not his son but is his cousin and neighbor and he testified the claim and contention of the plaintiff No.1 that the correct father and mother name of plaintiff No.1 are **Gulab Khan** and **Bibi Zainab**. His CNIC is Ex.PW-2/1.

15. PW-03 namely Sher Muhammad recorded in his statement that plaintiff No.1 is his nephew and Gulab khan is his brother who is dead. He stated that they belong to Qoam Mamozai District Orakzai. He further stated that Bibi Zainab is his sister-in-law. His CNIC is Ex.PW3/1.

16. In order to counter the claim of the plaintiffs, the contesting defendants produced only one witness, Mr. Irfan Hussain, the representative of the contesting defendants who appeared as DW-1. He produced family tree and processing form which is Ex. DW-1/1 and Ex.DW.1/2. According to these documents, plaintiff No.1 firstly made his Urdu (Simple Card) CNIC and after that he made his English (Smartcard) CNIC in 2018 in the Office of Nadra Sadda Kuram and Malak Syed Gul and Wajib Gul, Qoam Ali Sherzai Kuram verified Processing Form of plaintiff No.01. DW-01 in his cross examination admitted that according to the record of Zainab Bibi (plaintiff No.02) and statement of PW-03 the address of plaintiff No.01 is Qoam Mamozai District Orakzai. Furthermore, according to

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Ex.PW1/1 **Zainab Bibi** is wife of **Gulab Khan**. He admitted in his cross examination that it is correct that according to the SOPs of Nadra, correction of names, addresses and date of birth are possible.

17. Moreover, it is pertinent to mention her that plaintiffs in their plaint have averted that the correct mothers name of plaintiff No.1 is **Zainab Bibi**, however, keeping in view the evidence in shape of statements of the PWs and CNIC of plaintiff No.2, the same is not Zainab Bibi but is **Bibi Zainab.**

18. Keeping in view the above discussion both the issues are decided in favour the plaintiff No.1.

Issue No. 07:

Whether the correct date of birth of the plaintiff No.2 is 01.01.1969?

19. The plaintiffs alleged in their plaint that the correct date of birth of the plaintiff No.2 is **01.01.1969** but defendants have wrongly mentioned the same as in her CNIC is 01.01.1977, which is wrong, ineffective upon the rights of the plaintiff No.1 and liable to correction.

20. Burdon of proof regarding the issue was on plaintiffs. plaintiffs in order to discharge this Burdon produced witnesses and keeping in view the statements recorded by the said PWs and the unnatural gap between plaintiff No.1 and plaintiff No.2, the issue is decided in positive.

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Issue No. 01 &08:

Whether plaintiff has got cause of action?

Whether the plaintiffs are entitled to the decree as prayed for?

21. Both these issues are interlinked, hence, taken together for discussion. As sequel to the findings on issue No. 4,5,6 and 7, the plaintiffs have got cause of action and therefore, are entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

22. As sequel to the above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for. Defendants are directed to correct the address of plaintiff No.01 as **Qaom Mamozai, Tappa Mirkalam Khel, Village Sama Mamozai, P.O. Ghiljo, Tehsil Upper, District Orakzai** and father's & mother's name of the plaintiff No.01 as **Gulab Khan** and **Bibi Zainab** and date of birth of the plaintiff No.02 as **01.01.1969** in their record.

23. Parties are left to bear their own cost.

24. Decree sheet be drawn up accordingly.

25. File be consigned to the Record Room after its necessary completion and compilation.

Announced
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CERTIFICATE

Certified that this judgment of mine consists of seven (**07**) pages, each has been checked, corrected where necessary and signed by me.

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