

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....110/1 of 2022.

Date of Institution.....22.11.2022.

Date of Decision.....20.02.2023.

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1. Mir Hassan S/O Noor Sher and
 2. Gulseb Jan W/O Mir Hassan, R/O Qaum Sheikhan, Tappa Bazid
Khel, District Orakzai.
-(Plaintiffs)

Versus

1. Director Registration Office, NADRA, Kalaya, Orakzai.
 2. Registrar NADRA Office, Kalaya, Orakzai.
 3. Assistant Registrar NADRA, District Orakzai.
- (Defendants)

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SUIT FOR DECLARATION & PERMANENT JUNCTION


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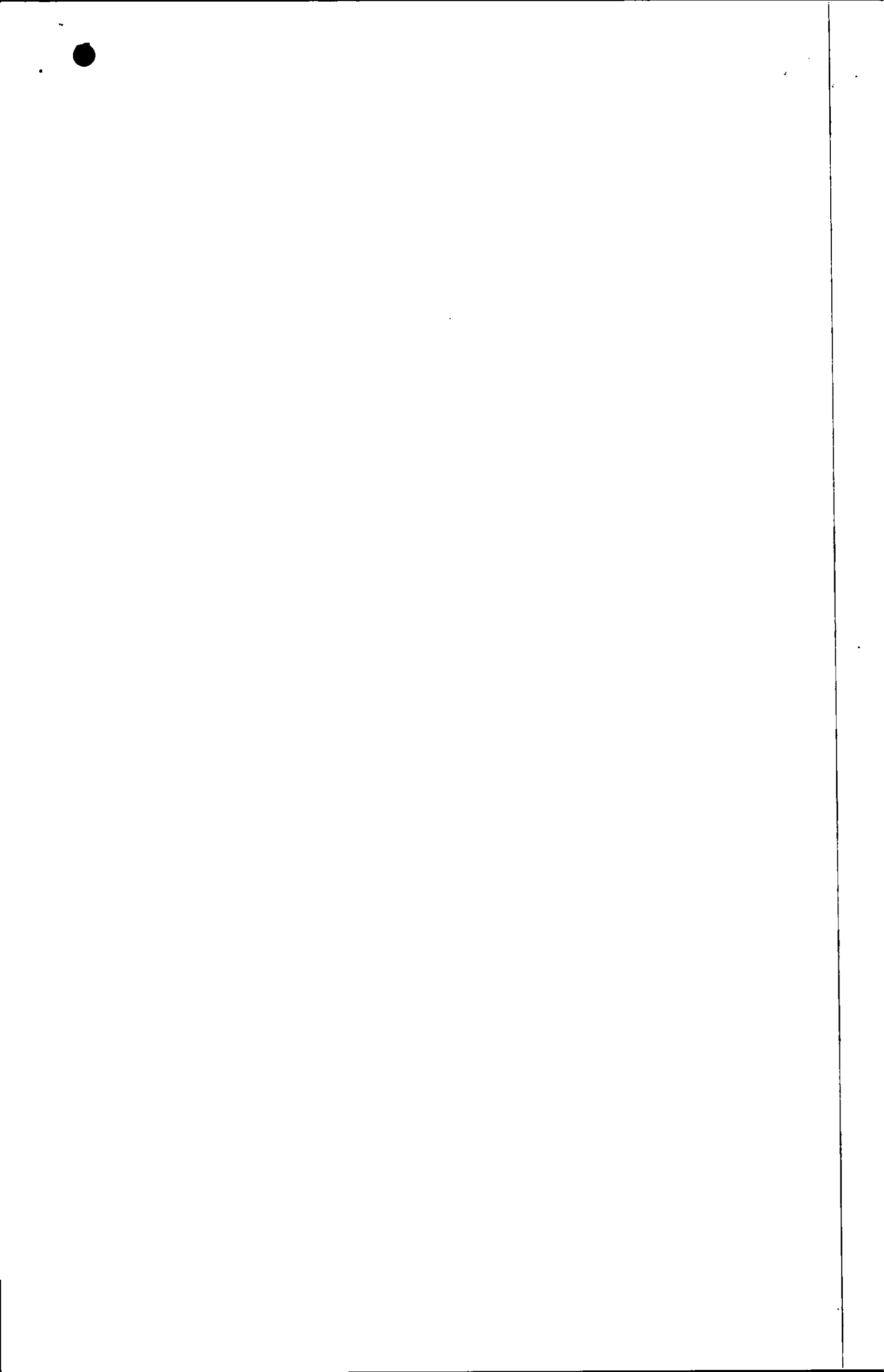
JUDGEMENT

20.02.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Mir Hassan and one other against defendants Director Registration Office, NADRA Orakzai and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that, true and correct date of birth of plaintiff No. 1 is 1945 and true and correct date of birth of plaintiff No. 2 is 1948, however, defendants have incorrectly


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entered the date of birth of plaintiff No. 1 as 1965 and date of birth of plaintiff No. 2 as 1970 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. It is further averred that date of birth of son of plaintiffs namely Hafiz Habib Aziz is 1975 due to which, there is unnatural age difference of about 10 and 5 years between plaintiffs and their son named above. That defendants were asked time and again to rectify date of birth of plaintiffs but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

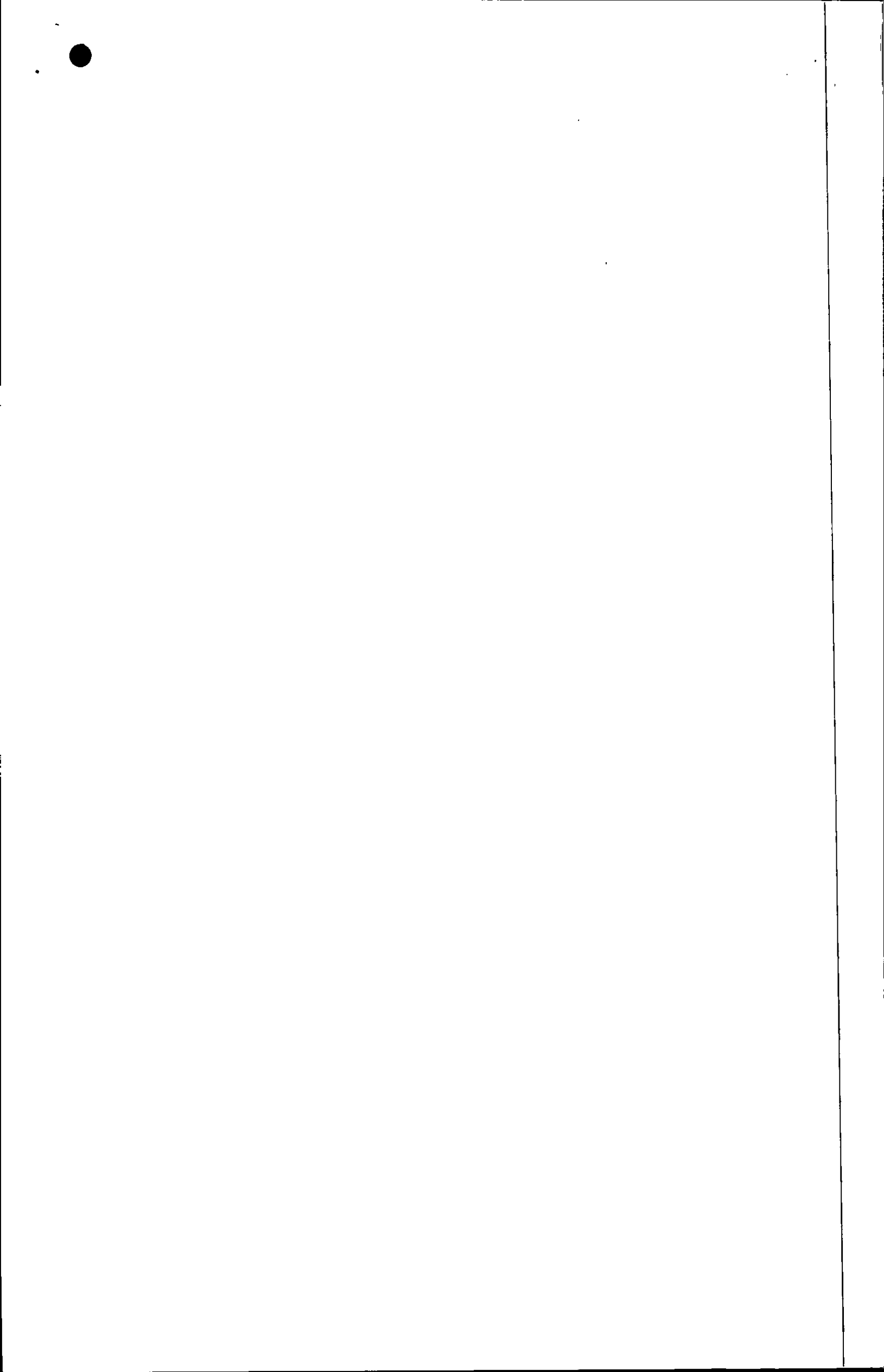
From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time?
3. Whether correct date of birth of plaintiff No.1 is 1945 instead of 1965 and correct date of birth of plaintiff No. 2 is 1948 instead of 1970? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. Relief.

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Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiffs produced two witnesses in support of their claim while defendants produced one witness in defense.

Hafiz Habib Aziz, son and special attorney of plaintiffs appeared and recorded his statement as PW-01. He reiterated the averments of plaint. Special power of attorney is Ex. PW-1/1. Copy of his CNIC is Ex. PW-1/2.

Muhammad Usman, another son of plaintiffs appeared and deposed as PW-02. Copy of his CNIC is Ex. PW-2/1. Copy of CNIC of plaintiff No. 2 is Ex. PW-2/2. He supported claim of plaintiffs.

Thereafter, evidence of plaintiffs was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree of plaintiffs which is Ex. DW-1/1. He stated that plaintiffs have been issued CNICs as per information provided by

plaintiffs.

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Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.



ISSUES NO.2

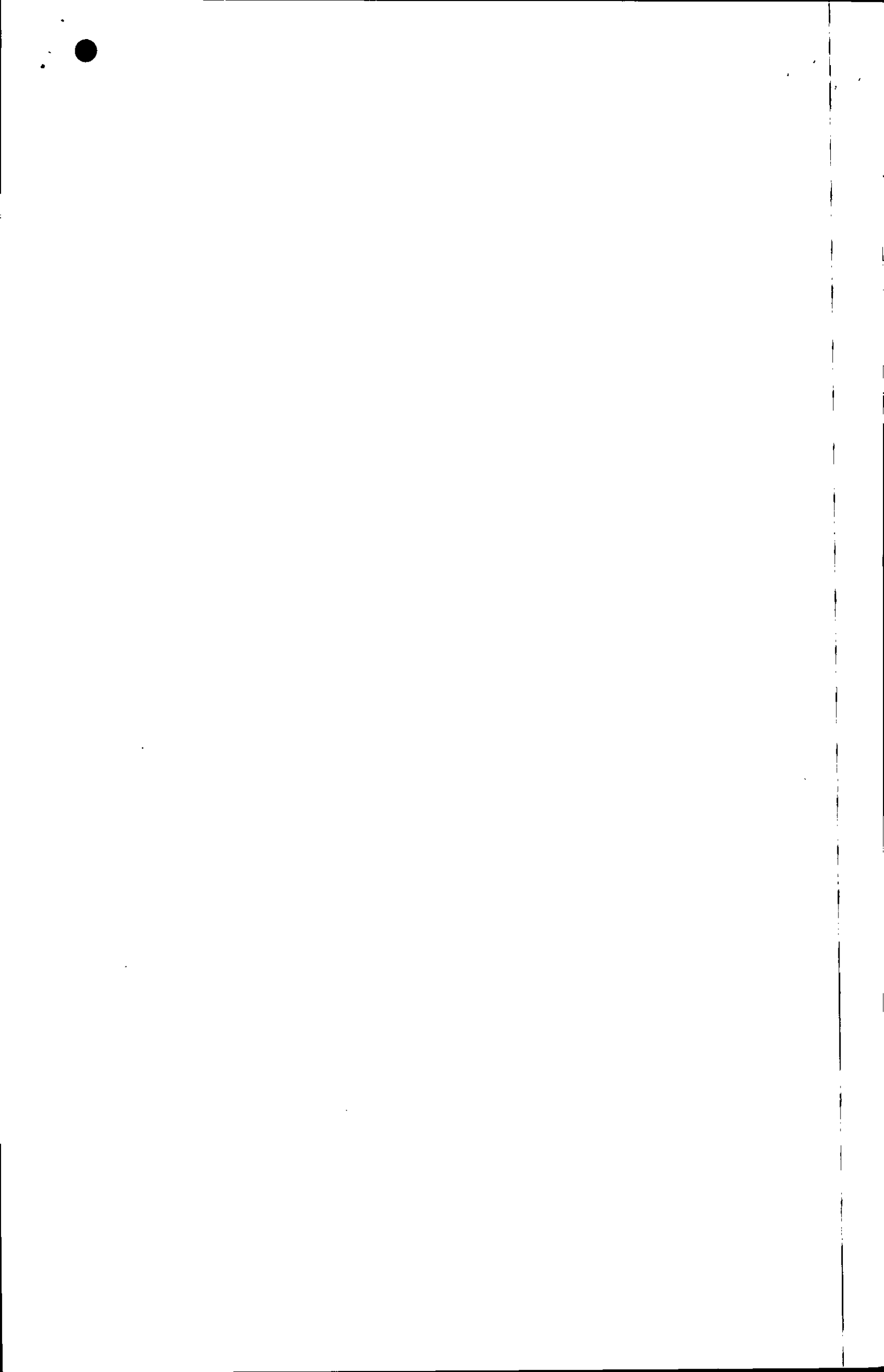
CNIC of plaintiff No. 1 was renewed on 28.11.2016 and CNIC of plaintiff No. 2 was renewed on 19.02.2021 while suit in hand was filed on 22.11.2022. In plethora of judgements of the apex superior courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issued decided in positive.

ISSUES NO.3

Claim and contention of plaintiffs is that, true and correct date of birth of plaintiff No. 1 is 1945 and true and correct date of birth of plaintiff No. 2 is 1948, however, defendants have incorrectly entered the date of birth of plaintiff No. 1 as 1965 and date of birth of plaintiff No. 2 as 1970 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 10 and 5 years between plaintiffs and their son namely Hafiz Habib Aziz whose date of birth is recorded as 1975. Per Ex. DW-1/1 and copy of CNIC of plaintiff No. 1, date of birth of plaintiff No. 1 is recorded as 1965 while as per Ex. PW-2/2, date of birth of plaintiff No. 2 is recorded as 01.01.1970. Per Ex. PW-1/2, date of birth of son of plaintiffs namely Hafiz Habib Aziz is recorded as 1975. Similarly, as per copy of CNIC of Shareef Jan Bibi (daughter of plaintiffs), her date of birth is recorded as 01.01.1970. As per copy of CNIC of Syed Aziz (another son of plaintiffs) his date of birth is recorded as 16.12.1971 and as per CNIC of Afsar Jan (daughter of plaintiffs) her date of birth is recorded as 1965.

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There is unnatural age difference of about 5, 6 and 10 years between plaintiffs and their children. Representative of defendants, who deposed as DW-01, stated at the bar that there must be at least 16/17 years age difference between parents and their children. He further added that per NADRA SOPs, date of birth of plaintiffs is required to be modified in order to avoid unnatural age difference. If dates of birth of plaintiffs are not modified, it will result into inconvenience to plaintiffs and their family children. Plaintiffs are not government servants. They are septuagenarian persons. The modification of their dates of birth will not affect rights of others.

Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, issue No. 3 is decided in favor of plaintiffs against the defendants.

ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiffs have got cause of action and are entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.

RELIEF:

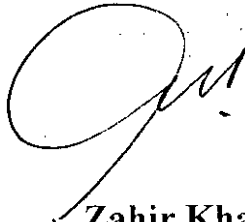
Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

[Handwritten Signature]

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

ANNOUNCED
20.02.2023



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CERTIFICATE

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



Zahir Khan
Civil Judge-I, Kalaya, Orakzai.