

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

Suit No.....9/1 of 2023.

Date of Institution.....06.03.2023.

Date of Decision.....20.03.2023.

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- 1. *Israfeel Khan*
- 2. *Suliman sons*
- 3. *Mst. Wajida Bibi D/O Said Karim All R/O Qoam Feroz Khel, Tappa Jeestal Khel, Saam, Tehsil Lower, District Orakzai.....(Plaintiffs)*

Versus

- 1. Chairman NADRA, Islamabad.
- 2. Assistant Director NADRA, District Orakzai.
- *(Defendants)*

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SUIT FOR DECLARATION & PERMANENT JUNCTION


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JUDGEMENT

20.03.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Israfeel Khan, Suliman and Mst. Wajida Bibi against defendants Chairman NADRA, Islamabad and one other 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 08.02.2001, plaintiff No. 2 is 08.01.2000 and plaintiff No. 3 is 01.01.1998 however, defendants have incorrectly entered the same as 01.01.1993, 18.10.1998


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and 01.01.1988 respectively 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 13 years between plaintiff No. 1 and his mother namely Mst. Noora Jan Bibi and there is unnatural age difference of about 8 and 12 years between plaintiff No. 3 and her parents. 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 08.02.2001 instead of 01.01.1993, plaintiff No. 2 is 08.01.2000 instead of 18.10.1998 and that of plaintiff No. 3 is 01.01.1998 instead of 01.01.1988? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP


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5. Relief.

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.

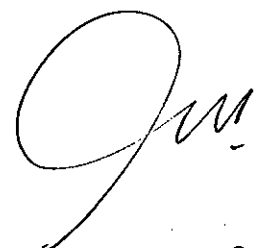
After the completion of evidence, arguments of the learned counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

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

Gula Jan, PSHT, GPS Lower Orakzai appeared and deposed as PW-01. He produced admission and withdrawal register of plaintiff No. 1 and plaintiff No. 2 according to which, date of birth of plaintiff No. 1 is recorded as 08.02.2001 and date of birth of plaintiff No. 2 is recorded as 08.01.2000. Copy of his Service Card is Ex. PW-1/1. School record/extract of admission and withdrawal register are Ex. PW-1/2 and Ex. PW-1/3.

Israfeel Khan plaintiff No.1, special attorney of plaintiff No. 2 and plaintiff No.3, appeared and deposed as PW-02 and reiterated the averments of plaint. Copy of his CNIC is Ex. PW-2/1, Special power of attorney is Ex. PW-2/2. Copy of CNIC of plaintiff No. 2 is Ex. PW-2/3. Copy of CNIC of plaintiff No. 3 is Ex. PW-2/4. Copies of CNICs of parents of plaintiffs are Ex. PW-2/5 and Ex. PW-2/6 respectively.

Thereafter, evidence of plaintiffs was closed.


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Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree of plaintiffs which is Ex. DW-1/1. He lastly requested for dismissal of suit of plaintiffs. Thereafter, evidence of defendants was closed.


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

ISSUE NO.2

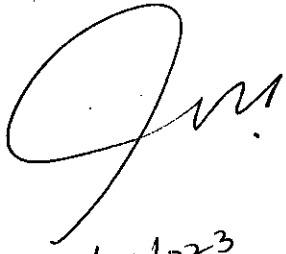
Plaintiff No. 1 and plaintiff No. 2 have been issued CNICs on 21.03.2022, 05.03.2020 with expiry dates as 21.03.2032 and 05.03.2030 while plaintiff No. 3 has been issued CNIC on 07.08.2015 with expiry date as 07.08.2025. Suit in hand was filed on 06.03.2023. In plethora of judgements of the apex superior 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. Issue decided in positive.

ISSUE NO.3

Claim and contention of plaintiff No. 1 is that as per school record, his true and correct date of birth is 08.02.2001, however, defendants have incorrectly entered the same as 01.01.1993. That due to this wrong entry, there is unnatural age difference of about 13 years between him and his mother namely Noora Jan Bibi whose date of birth is recorded as 01.01.1980. Similarly, date of birth of plaintiff No. 2 is


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08.01.2000 instead of 18.10.1998. Date of birth of plaintiff No. 3 is 01.01.1998 instead of 01.01.1988 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 8 and 12 years between plaintiff No. 3 and her parents namely Mst. Noora Jan Bibi (mother) and Said Karim (father) whose dates of birth are recorded in their CNICs as 01.01.1980 and 1976 respectively. Plea of plaintiff No. 1 and 2 is supported by Ex.PW-1/2 and Ex.PW-1/3 which record was produced by PW-01 who is posted as PSHT, at GPS, Lower Orakzai. Entries in Ex.PW-1/2 and Ex.PW-1/3 are prior in time. Presumption of correctness is attached to the same. As far as plea of plaintiff No. 3 is concerned, there is no documentary proof which could establish that correct date of birth of plaintiff No. 3 is 01.01.1998, however, there is unnatural age difference of about 8 and 12 years between plaintiff No. 3 and her parents named above which is evident from Ex.PW-2/4, Ex.PW-2/5 and Ex.PW-2/6. DW-01, admitted unnatural age difference of 08 years between plaintiff No. 3 and her mother. Plaintiff No. 3 is not a government servant. Per record she is illiterate lady. The rectification/modification sought by plaintiffs will not affect rights of others. DW-01, in his cross examination categorically admitted that there must be at least 17 years age difference between parents and their children. If dates of birth of plaintiffs are not modified, it will result into inconvenience to plaintiffs and their family



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members. Oral evidence produced by plaintiffs is also supportive to the averments of plaintiff.

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.

ISSUE 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.

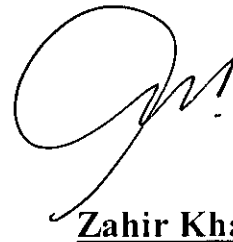
RELIEF:

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.

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

ANNOUNCED

20.03.2023



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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

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