

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

Civil Suit No. 5/1 of 2019  
Date of Institution: 21/3/2019  
Date of Decision: 22/07/2019

**Mst Zarnat Shahi w/o Zarbat Khan**

Resident of Village Baza kalay , PO Ghiljo, Tehsil Ismail Zai & 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, **Mst Zarnat Shahi**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking therein that her correct date of birth is 01/01/1959 while it has been wrongly mentioned as 01/01/1969 by the defendants, which is unnatural as the difference between the age of the plaintiff and her elder son is 08 years, which is against the natural gape. Hence, the instant suit.
2. Defendants were summoned, who appeared through attorney namely Habib Ullah Khan and submitted written statement, which is placed on file.

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

**Issues:**


1. Whether the plaintiff has got any cause of action?
2. Whether suit of the plaintiff is within time?

  
**MUHAMMAD AYAZ**  
Senior Civil Judge,  
Orakzai at Hangu

3. Whether the correct date of birth of the plaintiff is 01/01/1959 while the date 01/01/1969 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.

3. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses including her husband who was examined as PW-1.

4. PW-1 is Zarbat Khan, attorney/husband of the plaintiff. He produced his power of attorney and exhibited the same as Ex. PW-1/1, his CNIC as Ex. PW-1/2. He narrated the same facts as mentioned in the plaint. He is cross examined by the attorney of the defendants.

  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai, at Hangu.

PW-2, Dilbar Khan, witness of the plaintiff appeared and recorded her statement, wherein he supported the contention of the plaintiff and stated that at the time of marriage of the plaintiff, her real age was 17 years and after 01 year of marriage, her elder son was born. He is cross examined by the defendants through attorney.


6. PW-3 is Habib Khan, another witness of the plaintiff. He supported the contention of the plaintiff and narrated the same story of PW-2. He is also cross examined by the attorney of the defendants.

7. In rebuttal defendants produced an examined sole witness namely Habib Ullah, representative, as DW-1 and recorded his statement as DW-1. He is cross examined by the plaintiff.

8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:
10. **Issue No.01 and 03:**

These issues taken together. Plaintiff has filed the instant suit for declaration in respect of her real date of birth.

Perusal of record reveals that correct date of birth of the plaintiff is 01/01/1959, which is evident from the evidence of the plaintiff. The same are 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. Taking wisdom from the case law reported in **PLD 2003 Supreme Court page 849**, *“wherein it has been mentioned by the honorable Supreme Court of Pakistan that the best evidence to prove this fact (age or date of birth) was of those person who would have an ordinary course of life having personal knowledge. Statement of mother is at high pedestal as compared to other as she has given birth to him.”*

  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu.

Further, the difference of age between the plaintiff and her elder son is only 08 years, which is unnatural and not acceptable to any prudent mind. If this unnatural gape is not corrected, it will create problems for the elder son of the plaintiff in future. During the course of arguments, the learned attorney of the defendants conceded the factum that the unnatural gape is not possible in ordinary circumstances, so, he admitted the fault of

NADRA at the bar. Facts admitted need not to be proved. In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issues in hand are decided in affirmative.

**Issue No. 02:**

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, 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. 04:**

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

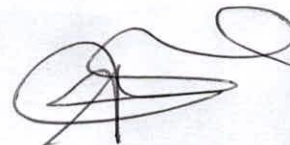
The issue is decided in positive.

**Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct her date of birth as 01/01/1959 forthwith.

11. Parties are left to bear their own costs.
12. File be consigned to the record room after its completion.

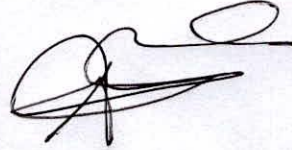
**Announced**  
22/07/2019



**(Muhammad Ayaz Khan)**  
Senior Civil Judge,  
Orakzai at Baber Mela

**CERTIFICATE**

Certified that this judgment of mine consists **05** (five) pages, each has been checked, corrected where necessary and signed by me.



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