

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

Civil Suit No. 64/1 of 2019  
 Date of Institution: 20/04/2019  
 Date of Decision: 14/10/2019

**Mst Islam Bibi w/o Hassan Gul**

Resident of Village Kamar Mela, PO Ghiljo, Upper Orakzai & District Orakzai...  
 (Plaintiff)

VERSUS


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

(Defendants)

**SUIT FOR DECLARATION & PERMANENT INJUNCTION**

**JUDGEMENT:**

1. Plaintiff, **Mst Islam Bibi**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01/01/1957** while it has been wrongly mentioned as **1967** by the defendants, which is unnatural as the difference of age of her and her elder son is 11 years. Hence, the instant suit.

  
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 Senior  
 Orakzai

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?

3. Whether the correct date of birth of the plaintiff is 01/01/1957, while the date 1967 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.


Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced two (02) witnesses.

  
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3. PW-1 is Dilawar Khan, Son/Attorney of the plaintiff. He produced and exhibited his power of attorney as Ex. PW-1/1, his school record as Ex. PW-1/2, his mother CNIC as Ex. PW-1/3, his brother namely Imran CNIC as Ex. PW-1/4. He stated that the real date of birth of the plaintiff is 01-01-1957 and the date entered in the CNIC as 1967 is incorrect. He added that due to the wrong entry of date of birth, the difference of age between his mother and brother is only 11 years, which is unnatural. PW-I is cross examined by the attorney of the defendants.
4. PW-2, Hassan Gul, husband of the plaintiff. He exhibited his CNIC as Ex. PW-2/1. He stated that his date of birth is 1953 while plaintiff is 4/5 years younger than him and the correct date of birth of the plaintiff is 01/01/1957. He is cross examined by the defendants through attorney.
5. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He is cross examined by the plaintiff.

6. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
7. My issues wise findings are as under:
8. **Issue No. 03:**  
Plaintiff has filed the instant suit for declaration in respect of his real date of birth.

Perusal of record reveals that correct date of birth of the plaintiff is 01/01/1957, 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.

  
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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 persons 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.”*

In present case, the husband and son of the plaintiff appeared and recorded their statements, wherein they stated that the correct date of birth of the plaintiff is 01/01/1957. Both are in such relation with plaintiff who has personal knowledge regarding the date of birth of the plaintiff, which cannot be ignored, hence, wisdom can be taken from the above cited case law, in present circumstances.

Further, the difference between the date of the birth of the plaintiff and her elder son is 11 years, which is unnatural and not acceptable to any prudent mind. If this unnatural gap 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 gap 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:**

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Cantonment Hangu

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. 01 & 04:**

Both issues are taken together. 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 date of birth of the plaintiff as 01/01/1957 forthwith.

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

**Announced**  
14/10/2019



**(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).