

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

Civil Suit No. 141/1 of 2019  
Date of Institution: 01/07/2019  
Date of Decision: 14/10/2019

**Bibi Amina w/o Jahangir Khan**

Resident of Village Sama Mamo Zai, PO Ghiljo, Tehsil 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, **Bibi Amna**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that her correct date of birth is **01/01/1971** while it has been wrongly mentioned as **01/01/1980** by the defendants, which is unnatural as the difference between the age of the plaintiff and her elder son is **09 years**, which is against the **natural gape**. Hence, the instant suit.


  
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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 01/01/1971, while the date 1980 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 two (02) witnesses.
4. PW-1 is Khial Muhammad, who is the son/attorney of the plaintiff. He exhibited his power of attorney as Ex. PW-1/2, CNIC as Ex. PW-1/1. He stated that the correct date of birth of the plaintiff is 01/01/1971 while it has been wrongly mentioned as 1980 by the defendants, which is unnatural as the difference between the age of the plaintiff and his son is **09 years**, which is against the **natural gape**. He is cross examined by the attorney of the defendants.
5. PW-2, is Abdul Ghafar, Brother-in-law of the plaintiff, who appeared and recorded his statement, wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is 01/01/1971.
6. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and

  
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recorded his statement as DW-1. He is cross examined by the plaintiff.

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

  
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Perusal of record reveals that correct date of birth of the plaintiff is 01/01/1971, which is evident from the evidence of the plaintiff. Further, if we presume 01/01/1980 the real date of birth of the plaintiff, then, only 09 years of difference exists between her and her son namely Anwar Saeed, which is unnatural and not appealable to any prudent mind. Even as per present CNIC of the plaintiff, the age of plaintiff at the time of marriage is 11 years, which is not possible as there is no concept of marriage of minor in our society as well as in Islam. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, the same is 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.

If this unnatural gape is not corrected, it will create problems for the plaintiff and her son in future. In circumstances, the claim of the plaintiff, as mentioned above, is

proved through cogent and reliable evidence. Hence, the issue in hand is 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.

  
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**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 affirmative.

**Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as 01/01/1971 forthwith.

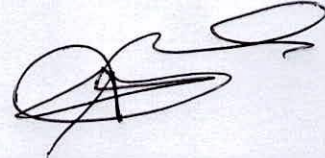
- 10. Parties are left to bear their own costs.
- 11. File be consigned to the record room after its completion.

**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).