

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

Civil Suit No. 216/1 of 2019
 Date of Institution: 03/12/2019
 Date of Decision: 23/01/2020

Mst Islam Jan w/o Nazeer Dad

Resident of Village Zankada, PO Ghiljo, Tehsil Upper & 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:

Plaintiff, **Mst Islam Jan w/o Nazeer Dad**, 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 **01.01.1940** and correct husband name is **Nazeer Dad**, while it has been wrongly mentioned as **1970** and as **Nazar Dad** respectively by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

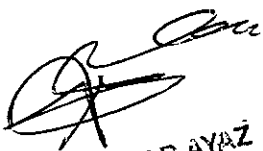
Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, which is placed on file.

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

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Issues:

1. Whether plaintiff has got cause of action.
 2. Whether suit of plaintiff is within time.
 3. Whether the correct husband name of the plaintiff is **Nazeer Dad** while it has been wrongly entered in his CNIC as **Nazar Dad** and the correct date of birth of the plaintiff is **01.01.1940** while it has been wrongly entered in the CNIC as **1970**.
 4. Plaintiff is entitled to the decree as prayed for.
 5. Relief.
6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses including himself.
7. PW-1, Habib Rehman, is son/attorney of the plaintiff, who recorded his statement. He stated that correct the correct name of the husband of the plaintiff is **Nazeer Dad**, which is wrongly mentioned in his CNIC as Nazar Dad. Secondly, the correct date of birth of the plaintiff is **01.01.1940**, while it has been wrongly mentioned is her CNIC as **1970** by the defendants. He further stated that the age gape between the plaintiff and her Childs is less than natural gape. He produced and exhibited the copy of the CNIC of the plaintiff as Ex.PW-1/1, her husband CNIC as Ex.PW-1/2, Rafi Ullah Khan CNIC as Ex.PW-1/3, copy on CNIC of Haji Rehman as Ex.PW-1/4, copy of Hikmat rehman CNIC as Ex.PW-1/5, Rehman Ullah CNIC as Ex.PW-1/6, Abdurehman


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CNIC as Ex.PW-1/7, Habib Urehman CNIC as Ex.PW-1/8 and Power of attorney as Ex.PW-1/9. He requested for grant of decree as prayed for. He was cross examined by the defendants.

8. PW-2, Zota Khan, is cousin of the plaintiff. He stated that the correct husband name of the plaintiff is Nazeer Dad and correct date of birth is 01.01.1940. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.

9. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the registration form of the plaintiff and exhibited the same as Ex. DW-1/1, family tree as Ex. DW-1/2. He is cross examined by the plaintiff.

10. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:


Issue No. 02:

11. 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.03:

Perusal of record and evidence present on file reveals that the plaintiff claims her correct date of birth as **01.01.1940** and correct name of husband as **Nazeer Dad**, and she relied upon the law of nature and that of natural gape. If we presume the present date of birth of the plaintiff as correct, which is **1970**, then, the elder son of the plaintiff namely Rafi Ullah is born in 1959, another son namely Haji Rehman is born in 1966 and another son Hikmat Rehman is born in 1976; another son Rehman Ullah is born in 1981, another son namely Abdur Rehman is born in 1983 and last son namely Habibur Rehman is born in 1984. Interestingly, the elder son is 11 years younger than the plaintiff while the 2nd son is 04 year younger than the plaintiff, which is humanly not possible. Moreover, the difference of age of the plaintiff with her 3rd son is 06, with 4th son is 11 years, with 5th son is 13 years and with 6th son is 14 years, which is not possible by any imagination. The same is even against the natural difference between mother and sons. The difference must be more than 18 years, under the normal circumstances. The said difference of ages is unnatural and the


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same is not appealable to any prudent mind. Further, the attorney of the plaintiff has also mentioned the correct name of the husband of the plaintiff as Nazeer Dad, which is not even objected by the defendants in their cross examination.


The said factum has not been shattered by the defendants in evidence. The same are not rebutted by any documents by the defendants, hence, the said evidence is admissible, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. 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, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth and name of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth and name is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said document is admissible in evidence, which is relied upon in present circumstances.


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Nothing is produced in rebuttal by the defendants. Hence, the said document is admissible in evidence, which is relied upon in present circumstances.

If this correction is not made at this stage, in future the sons of the plaintiff will face problems and they will file suits for such corrections, which will be the multiplicity of suits. Hence, in order to avoid future complications, the instant correction is necessary.

Hence, the issue in hand is decided in affirmative.


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Issue No.1&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 issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC to the plaintiff with correct name of the husband as **Nazeer Dad** and correct the date of birth of the plaintiff as 01.01.1940. Parties are left to bear their own costs.

Plaintiff shall pay all the fee for correction as required by the NADRA.

File be consigned to the record room after its completion.

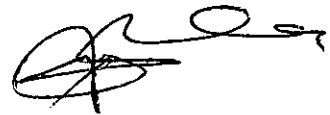
Announced
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CERTIFICATE

Certified that this judgment of mine consists 07 (seven) pages, each has been checked, corrected where necessary and signed by me.



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